

complaint

Mr H is unhappy that Barclays Bank Plc has recorded a fraud marker against him and won't remove it.

background

Mr H had served in the army for a number of years. He returned to the UK and suffered with mental health problems, including PTSD. He found himself fall into a gambling addiction which grew worse over time.

Mr H struggled with this addiction for a number of years and his spending led him into debt which he couldn't repay. His illness fuelled him into transferring money from his father's Barclays account – without his knowledge or consent – into his own. The money was then lost through Mr H's gambling.

Mr H told his father what he'd done and in turn his father asked his bank how this could have occurred without him being sent any warnings. Barclays, having been notified of what had happened and the circumstances behind it, investigated and made the decision to close Mr H's account. It could see the money had been transferred to it without proper authority. And so it also reported the matter to CIFAS, a fraud prevention agency, leading to a marker being placed against Mr H.

Mr H found out about the marker and complained. He admitted what he'd done but didn't think Barclays had taken full account of his personal circumstances at the time. He felt Barclays shouldn't just be following normal processes and should have regard for what he'd been going through.

He also pointed out that his father had decided to not report the matter to the police or take it any further. He felt that meant the marker shouldn't have been applied.

Barclays responded and said it had a duty to report any instances of fraud it became aware of to the relevant agencies and declined to change its position.

I'm aware that Mr H has also complained to the fraud prevention agency concerned and it has also declined to remove the marker. It felt the application for it to be applied had been filed correctly. It's important I point out here that I am not considering the actions or response of the agency involved. I've stated the detail here for background and because I think it's important to the case overall.

Mr H brought his complaint to us as he was unhappy with Barclays' response. He particularly highlighted the impact the marker could have on his future, including the possibility of losing his job.

One of our investigators looked at what had happened. She acknowledged that Mr H had been through a very difficult time and that the continued existence of the marker could lead to more problems. But she couldn't find that Barclays had acted incorrectly in applying it.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I'm unable to uphold it and I can't say that Barclays should look to have the marker removed. I'll explain why.

I can see there's no dispute about the circumstances that have caused Barclays to take the course of action it has. Mr H has freely admitted that he took his father's money without permission. And so there's no need for me to make any findings about what happened there.

I've reached my decision about whether Barclays should remove the marker placed against Mr H with those circumstances in mind. It's clear what has happened and what the reasons were for applying it. Barclays was fulfilling its obligations when it registered the details with the fraud prevention agency. It must report any instances of fraud it discovers. Mr H appears to accept that to a degree. It's the consideration of what he'd been going through at the time – his mental health problems, leading to a gambling addiction – that he feels should mean the standard approach should be looked beyond here.

Barclays are entitled to make a filing of this nature when there are reasonable grounds to believe a fraud or a financial crime has been committed or attempted. If there's clear evidence that has happened, to the extent that Barclays could confidently report the matter to the police, then a filing is justified. And, given the circumstances as we know them, that test appears to have been met and applied fairly.

I do sympathise with Mr H, what he'd been going through and continues to deal with. I can't imagine how difficult things have been for him in trying to cope with his mental health problems and confronting the events at the centre of this complaint. I've no doubt it's put a huge strain on Mr H and his family.

I can't say though that Mr H's personal circumstances should mean that Barclays overlook its obligations in reporting and recording instances where one of its customers has taken another person's money. Mr H's father's decision to not report the matter to the police himself doesn't change that.

Mr H is concerned about the consequences of the marker staying in place. He's particularly worried about for the possible impact on his job, fearing he'll lose it. I can see why Mr H is worried about this and he's said how bad an impact it might have on him were that to happen. I sincerely hope Mr H is able to get help and support with what he's going through, but the risk to his job isn't a reason I can fairly take up to say the marker should be removed.

I've noted that Mr H has contacted the fraud prevention agency himself about the marker. He's explained everything to them including the circumstances behind the marker along with his personal situation. The response he received was that the marker was applied correctly and that it wouldn't be removed. I can only see this as persuasive evidence that Barclays has acted correctly in what it's done.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 March 2019.

Ben Murray
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