

## Complaint

Mr H complains that Lloyds Bank plc recorded a CIFAS marker against his name. He says this meant he couldn't open a bank account and he lost his job. CIFAS is one of the UK's fraud alert services.

## Background

On 10 March 2017, Mr H's account was credited with £1,200. On the same day, Mr H withdrew £800 at a branch counter and £390 from an ATM.

Lloyds received notice from the third party bank that the £1,200 had been taken fraudulently from its customer's account. It wasn't satisfied that Mr H was able to give it a clear explanation as to where the funds had come from and why he'd withdrawn them so quickly. So it closed his account and recorded a CIFAS marker against him.

At the end of 2018 – having been unable to open an account elsewhere – Mr H complained to Lloyds, but it wouldn't remove the CIFAS marker.

When he brought his complaint to this service, he explained that he'd been approached by an old friend who was expecting some money but didn't have a bank account. So Mr H agreed to have the money paid into his own account. As soon as the money was received, he withdrew it and handed it to his friend.

### *My provisional decision*

I didn't think the complaint should be upheld. I set out my reasons as follows:

*The money credited to Mr H's account was a fraudulent transaction – the money had been debited from a third party's account without their authority or consent. But before placing the CIFAS marker against Mr H's name, Lloyds needed to have a reasonable belief that criminal charges could be brought against him as a result of the activity. A suspicion or concern isn't enough. So I need to decide if there's enough evidence to show that Mr H knew more about this than he's told us.*

*I think there was enough evidence to show that Mr H knew about the fraud. Let me explain why.*

*When Lloyds first contacted Mr H to tell him the funds were fraudulent and to ask him what had happened, it seems Mr H hung up. It's possible that the phone line may have simply cut out, but in that case I would have expected Mr H to make contact with Lloyds again to find out what had happened.*

*A month later, in response to another call from the bank, Mr H said the money was from his father. Unfortunately there's no call recording available of this, so I don't know exactly what Mr H said. But the bank says, when it told him the money came from a female's account, he couldn't explain what happened. Mr H then admits he got angry and swore and Lloyds ended the call.*

*Mr H told us that he panicked when the bank told him the funds were fraudulent, and that was why he gave the explanation he did. I accept it's likely that he was very worried when he was told about the fraudulent activity. But – if he had no knowledge of this –*

*I would have expected him to tell the bank exactly what had happened. I say this particularly because, in the latest explanation he gave us, Mr H said he did a favour for a friend who he'd bumped into and hadn't seen for around three years. So it wasn't a close friend or family member that he felt obliged to protect.*

*The explanation Mr H gave us is plausible. But if this is what happened I think, in all likelihood, Mr H would have told the bank – if not during the first phone call, then at least when he realised his account was going to be closed.*

*If the events were as Mr H described to us, there's no explanation as to why the money was withdrawn over 35 minutes in three separate transactions. If a friend had asked him to accept money into his account, I would have expected Mr H to have withdrawn the whole sum in one go and hand it to his friend.*

*As noted by our investigator, CIFAS's standards for recording a marker are very high. But I think there is enough information here for a marker to be placed against Mr H. A financial crime was committed – money was paid into his account from a third party account without their authority. And Mr H agreed to that money being credited to his account, and withdrew it. He failed to give a plausible explanation to the bank. The explanation provided to us – nearly two years after the event – is plausible. But Mr H hasn't provided the name of the friend or been able to explain why he didn't have a bank account or where he said the money was coming from.*

*Taking all of this together, this all points to Mr H knowing more about the transactions than he's told us. And I think Lloyds does have enough evidence to report this matter to the police.*

*Mr H has expressed his remorse about what happened and I'm not unsympathetic to the position in which he now finds himself. But, for the reasons I've explained, I don't think Lloyds was wrong to record a CIFAS marker against Mr H's name.*

*Lloyds placed the CIFAS marker against Mr H's name before it had completed its investigation. It seems to have acted following the third party bank report. This was wrong. But it doesn't make a difference to my overall conclusion. I've decided that there was enough evidence to record a CIFAS marker, so I wouldn't expect the bank to remove it just because it recorded it a few weeks earlier than it should have done.*

I invited both parties to provide further comment or information. Lloyds had no further comment. Mr H told us how difficult it's been for him to open another bank account which has impacted on his ability to keep a job. He's worried about the impact this will continue to have on him in the future. And he said he was young when this happened and he's learnt his lesson the hard way.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Neither party has provided any information to change my earlier conclusions. As I noted in my provisional decision, I'm not unsympathetic to the position in which Mr H now finds himself. And I have no doubt he is genuinely sorry for what has happened. But I have to consider whether the bank acted reasonably and fairly when it recorded the CIFAS marker.

For the reasons I explained in my provisional decision, I think it did. So I don't find there is any obligation on it now to remove the marker because of the impact it's having on Mr H – however difficult things are for him.

**My final decision**

For the reasons I've explained, my final decision is that I do not 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 27 March 2020.

Elizabeth Dawes  
**Ombudsman**