

## **complaint**

Mr D complains that Barclays Bank UK plc won't refund money that was taken from his account without his knowledge or consent. He's also unhappy that Barclays closed his account and registered his details with CIFAS, the UK's fraud alert service. He wants the CIFAS marker removed.

Mr D is being represented in his complaint by A.

## **Background**

Mr D had a current account with Barclays.

Mr D had a balance of around £730 in his account at the start of November 2017. Between 9 and 11 November three payments totalling £6,500 were made into Mr D's account. Following this a series of disputed withdrawals took place. Some were ATM withdrawals and others were made using an assisted service device (ASD). By 15 November 2017 only £1.96 remained in the account. Mr D says he wasn't aware of these transactions until 26 November 2017.

When Mr D contacted Barclays it carried out an internal review. After it completed its review Barclays decided to close Mr D's account. And wrote to him on 24 November 2017 to let him know he needed to make alternative banking arrangements.

Mr D complained to Barclays. He told the bank that he'd lost his wallet but wasn't sure exactly when. He explained that his wallet had contained his bank card, some cash and his mobile banking PIN. Mr D reported his card missing to Barclays on 27 November 2017 and said he thought he had lost it about a week before he reported it.

Mr D said the last transaction he authorised was one to a retailer for £30 on 2 November 2017. Mr D's representative said that he hadn't given his card, PIN or banking details with anyone. He also said Mr D had needed a new phone as his old one broke. And Mr D got a replacement phone on 18 November 2017 after the fraudulent activity on his account.

Barclays said it wasn't willing to reopen Mr D's account and said it had recorded a CIFAS marker against Mr D's name because fraudulent funds had been paid into his account.

Unhappy with this response Mr D brought his complaint to our service. Our investigator thought Mr D had authorised the transactions. This was because:

- Mr D's mobile phone and mobile banking was not compromised
- his mobile phone and number were in his possession at the relevant time
- he was adamant that he hadn't handed his card and PIN to anyone
- there was no plausible explanation for how someone else could have gained access to Mr D's card, PIN and banking details and
- Mr D's card was still in his possession at the time of the fraudulent transactions

Based on this he said it was likely Mr D had been aware of the fraudulent transactions. And they had been carried out with his consent. So, he said Barclays had done nothing wrong when they reported this to CIFAS.

Mr D disagreed. So, the matter has come to me to decide.

## 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've reached the same overall conclusion as the investigator did and for much the same reasons.

Barclays said it applied the CIFAS marker because the funds received into the account were fraudulent.

So, I've looked at whether Barclays was fair to apply the marker, based on the evidence it had and the investigation it carried out and what the rules say about applying such markers.

CIFAS guidance says the business must have carried out checks of sufficient depth to meet the burden of proof set by CIFAS, which at that time was that Barclays needed to have enough information to make a formal complaint to the police or other relevant law enforcement agencies. And that any filing should be for confirmed cases of fraud, rather than mere suspicion. In addition, CIFAS guidance set out businesses are expected to retain the evidence they rely upon when applying a CIFAS marker for at least six years.

Having reviewed Mr D's account of events and the evidence Barclays have provided, I'm satisfied Barclays had sufficient evidence for the CIFAS marker to be recorded on his file. In coming to this view I've taken into account the following reasons:

- Mr D's genuine card and PIN were used in the transactions. Mr D has said no one else knew his PIN and although he has said the card was lost, the dates he gave were *after* the disputed transactions took place, so his card was in his possession during the period of the fraudulent transactions.
- Mr D's date of birth was used as additional identification for the ASD cash withdrawals. And there is no plausible explanation how a fraudster would come to know Mr D's date of birth or be able to guess it correctly.
- during the period of the disputed transactions Mr D's log in activity on mobile banking increased dramatically from 2 or 3 times a day to between 10 and 20 times a day on the dates the fraudulent funds were received into the account. That level of mobile activity suggests that Mr D must have been aware of what was happening on his account and didn't report it to Barclays.
- the technical evidence shows that mobile banking was accessed from the number registered on the account and the device that had been used in the past by Mr D. So, although this is unusual activity for Mr D the evidence suggests it was Mr D who carried out this mobile activity.
- I've also noted that Mr D still had his old mobile phone during this time as his phone wasn't replaced until 18 November after the account was blocked.

In conclusion, based on the evidence, I think it's more likely than not that Mr D was aware that fraudulent funds were coming into his account and looking at the technical evidence the most plausible explanation is that Mr D made the withdrawals himself as I don't think it's plausible for a fraudster to have obtained Mr D's bank card, PIN, mobile phone and online banking information without his knowledge and consent.

In all the circumstances I believe Barclays acted fairly when it closed Mr D's account and registered his details with CIFAS. So, I am not going to ask them to remove the CIFAS marker.

**my final decision**

My final decision is I don't uphold Mr D's complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 February 2020.

Esperanza Fuentes  
**ombudsman**