

The complaint

Mr N has complained that Starling Bank Limited registered a marker against him at CIFAS, the national fraud database.

What happened

In early 2022, Mr N's Starling account received money from a victim who'd been defrauded into paying Mr N. This money was mostly sent on to third parties by bank transfer, though some was also sent between Mr N's external account or spent at a shop using Apple Pay.

Starling questioned Mr N about this at the time. He said the payer was a close friend of his and he'd sold them a phone in person. He had no evidence of owning this phone, of selling it, of buying his replacement phone, or of talking to the payer. Starling closed the account and registered a marker against Mr N at CIFAS.

Mr N complained. He then said he was not involved at all, as he was away at the time and had lost his card, though he'd forgotten to report it missing. He came to our service. He now says that he was both abroad *and* that he sold the phone in person to a close friend. He did not know his close friend's full name.

Our investigator looked into things independently and didn't uphold the complaint. Mr N asked for an ombudsman to make a final decision, so the complaint's been passed to me to decide.

What I've decided – and why

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

In order to register this marker, Starling were not required to prove beyond all reasonable doubt that Mr N had done something wrong. They did need to have reasonable grounds to believe that he'd misused his account, which went beyond a suspicion or concern, and which had appropriate supporting evidence. Having carefully considered everything that both sides have said and provided, I think Starling did have sufficient grounds to register this marker. I'll explain why.

Starling received an official report from another institution that the money Mr N received and spent did not come from the sale of a phone, but from a victim of crime who'd been defrauded into paying Mr N.

The activity on Mr N's account is consistent with fraudulent use. For example, it was opened shortly before the fraud and had little genuine activity. Mr N made a number of test payments to and from an external account before the fraud. Then when the fraudulent funds came in, he sent the bulk on to external third parties such that they couldn't be recovered, and kept some for himself. Mr N appears to have benefitted from the fraud and his actions are very consistent with that of a money mule.

Depending on which of Mr N's versions of events we use, Mr N has claimed he could not have been involved in the fraud as he was abroad and had lost his card. But the fraudulent funds were sent on by bank transfer, not by card. The only registered device on the account was Mr N's phone, which he'd registered shortly beforehand using a live video selfie, so I'm satisfied this was Mr N's device. Mr N only said he lost his card, not his phone. And even if he was abroad, he would still have been able to use his mobile banking, so that would not have prevented him from being involved. Further, the evidence Mr N sent us of being abroad does not appear to be genuine. For example, he said he was abroad for a conference, but the conference in question happened *after* the date that Mr N said he flew back home. And the tickets were in a different name to Mr N's.

Next, I've considered Mr N's claim that the money he received was for the genuine sale of a phone to a close friend of his. But Mr N had absolutely no evidence of ever owning the phone he said he sold, nor of delivering it, nor of replacing it. He had no evidence of any messages with the alleged buyer – and even if they'd met up in person, they would still have needed to arrange that meeting. And the report Starling received is clear that the person paying Mr N did so because they were defrauded, not because they were buying a phone.

Further, when Starling asked Mr N about the payer – and provided their name to him – he said that the *payer* was his close friend. Mr N then told us he didn't know his friend's full name, despite how implausible that would be for a close friend. And Mr N has now given us a completely different name to the payer's name, despite him previously saying that the payer was the friend. So Mr N's testimony here has been contradictory and implausible.

Indeed, I'm afraid I do need to note that Mr N's testimony has been unreliable throughout. He's provided notably different versions of events or implausible stories. For example, he told our investigator that he was abroad, but also that he simultaneously sold the phone in person to a UK-based buyer.

In summary, Mr N received, spent, and benefitted from fraudulent funds. His activity is highly consistent with that of someone who was involved in the fraud. I'm reasonably satisfied that he was involved, as it took place on the mobile he'd newly registered with a live video selfie. Mr N has claimed entitlement to the money but has not provided any supporting evidence, even when such evidence would be straightforward to provide. And his testimony has been inconsistent and implausible.

So it seems fair that Starling closed Mr N's account and registered a marker against him at CIFAS. This is a difficult message for me to give, and I know it's a difficult message for Mr N to receive. But given the evidence I have, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

My final decision

For the reasons I've explained, I don't uphold Mr N's complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 29 April 2024.

Adam Charles
Ombudsman