

The complaint

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

What happened

Both sides are most familiar with the case, so I'll summarise what happened in brief.

In 2022, Mr A received two payments totalling over £1,000. He quickly forwarded on the money to cryptocurrency platforms using his Starling card and app. Later that day, Starling learned that the money came from a scam victim who'd been defrauded into paying Mr A.

Mr A told Starling the money was from a family friend who owed him. He then said it was actually from a friend who was going to lend him £20 for a taxi, but instead sent him over £1,000 of fraudulent money without his permission and for no apparent reason. Finally, he said the money was payment for goods he was selling through his business. He confirmed he'd forwarded the money to his own cryptocurrency account, then later claimed the largest payment didn't go through.

Starling closed Mr A's account and registered a marker at CIFAS. Mr A came to our service.

Our investigator looked into things independently and didn't uphold the complaint. Mr A didn't agree, so the complaint's been passed to me to decide.

I sent Mr A and Starling a provisional decision on 21 June 2023, to explain why I didn't think the complaint should be upheld. In that decision, I said:

In order to register this marker, Starling were not required to prove beyond all reasonable doubt that Mr A 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 so far, I currently think Starling did have sufficient grounds to register this marker. I'll explain why.

Starling was sent an official report that the money Mr A received was the proceeds of fraud. And I'm satisfied from Starling's technical evidence that Mr A forwarded the fraudulent funds on to cryptocurrency accounts.

Mr A acted very quickly indeed to forward the fraudulent funds on, meaning they couldn't be recovered once the fraud was reported. This would be unusual if the payments were just money for a taxi or goods he sold – he'd have no good reason to act so quickly. But it fits very well with the expected activity of someone who was either involved in the fraud or acting as a money mule.

I've considered the reasons Mr A gave for being entitled to the money. He's already confirmed that his first story was fictitious, saying he told it because he was in shock.

Mr A's second story was that a friend was going to send him £20 for a taxi, but instead sent him fraudulent funds. Mr A initially said he had proof of this, such as saved screenshots. But when we asked him for such evidence he didn't provide any. There's no record of Mr A receiving any such payment from this friend at the time, nor paying for a taxi. Further, it wouldn't make any sense for a friend to give their proceeds of crime to Mr A without his consent – they would essentially just be losing over £1,000 while getting their friend in trouble. And it certainly wouldn't make sense for Mr A to forward this money to his crypto accounts if he was only expecting £20 for a taxi and knew he wasn't entitled to over £1,000. Mr A now says he told this story as he got mixed up between the money he received from his friend and the money he received from his customer at the same time. But as far as I can see, the friend didn't send him money at the time, there wasn't a taxi, and what he's said is simply not plausible. So this wasn't just a mix up – this story appears to be fictitious as well.

Next, Mr A said the money was for goods he sold from his business. He said a fraudster bought the goods, using funds which Mr A only found out afterwards were fraudulent.

Mr A was unable to provide any substantial evidence that this business existed or was legitimate, saying it was just a side hustle. He didn't have any evidence of selling any other goods, such as invoices, money received, or contact with other customers, even though he would have plenty of such evidence if he'd really been selling goods. Mr A did provide undated photos of unidentified people holding unspecified, unlabelled clothes or packages. But those pictures do not objectively substantiate in any reasonable way that these were goods he actually sold.

Mr A also provided a receipt and pictures of the goods he said he was going to sell to the fraudster, and screenshots purporting to be his conversation with the fraudster. But there are significant inconsistencies in the evidence he provided. For example:

- The amount Mr A received does not match up to the amount he was allegedly selling the goods for*
- The receipt Mr A provided was in someone else's name, for goods which were a different colour to the ones he provided pictures of*
- In the screenshots, Mr A refers to the money as being fraudulent before Starling told him it was fraudulent. At that point, Starling had only asked him for more details about the nature and purpose of the funds as part of some checks*
- According to Mr A's screenshots, the fraudster gave him a fake address to send the goods to, then sent him fraudulent funds, getting his account blocked. That would make no sense. There'd be no benefit to a fraudster for them to carry out a difficult and sophisticated scam, only to send all the proceeds to a random person they didn't know, in exchange for goods they'd never receive – as the account would be blocked before the goods could reasonably be sent, and they'd given a fake address anyway.*

So Mr A has not sufficiently evidenced that he was entitled to this money, and I have concerns that some of the evidence he provided may not be genuine.

Mr A has now claimed that the largest payment to the crypto platform didn't go through, providing a transaction history from a crypto account to evidence it was never received. But I can see from the technical evidence that the payment definitely did go through, and it's not possible to see which crypto account it paid. All Mr A's evidence shows is that it didn't go to that particular crypto account. So Mr A either sent that payment to a different crypto account of his – meaning he benefitted from the fraud; or he sent it to someone else's crypto account then claimed otherwise – which wouldn't really make sense for him to do unless he was acting as a money mule.

Mr A also sent two smaller payments to a second crypto platform via his Apple Pay facility. When we asked him for more evidence about that, he said he didn't remember those. I'll send Mr A another copy of his statements to refresh his memory.

Lastly, I've not seen any evidence that makes it seem implausible or unlikely that Mr A could've knowingly and willingly forwarded on the proceeds of fraud.

In summary:

- *Mr A received the confirmed proceeds of fraud*
- *Mr A acted very quickly to forward the fraudulent funds on to cryptocurrency platforms, in such a way that they couldn't be recovered, in a manner consistent with what I'd expect from someone involved in the fraud*
- *Mr A's testimony has been inconsistent and implausible, and at key points untruthful*
- *Mr A has not been able to sufficiently evidence he was entitled to the money, even where such evidence should have been straightforward to provide, and some of the evidence he provided does not appear to be genuine*
- *As far as I can see, Mr A has either benefitted from the fraud himself, or forwarded the fraudulent funds to someone else as a money mule would.*

So it seems fair that Starling closed Mr A'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 A to receive. But given the evidence I have, and the balance of probabilities, I'm currently unable to reasonably reach any other conclusion.

I said I'd consider anything else anyone wanted to give me – so long as I received it before 5 July 2023.

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 response to the provisional decision, Starling didn't add anything further. Mr A thanked us for our time and added a few comments.

Mr A said he didn't know what the person he was talking to was thinking, and suggested they may have given him their real address and only said it was fake. Mr A also clarified that he was going through a stressful time and that impacted his judgement. He confirmed he didn't have any further evidence to provide, and said he'd learned his lesson about how to run a business in future.

I'm grateful for Mr A's comments. I accept it's possible that someone might only say they're giving a fake address, though I've also not been able to match the name Mr A provided to the address provided. And the other inconsistencies – such as the difference in amounts, the receipt not matching up to the goods Mr A said he sold, and that in the screenshots Mr A apparently knew the funds were fraudulent before he was told – still leave me with concerns that this evidence is not genuine.

I also appreciate Mr A's point that he didn't understand he was supposed to have proper business records. But again, even with an unregistered business, Mr A should still have been able to show evidence of contact with other customers, payments he received for goods, delivering goods, and so on. It's not very plausible that he'd have no evidence of this business aside from photos of unlabelled items being held by unidentified hands.

Lastly, I'm sorry to hear that Mr A was going through a stressful time, and I do appreciate that this can affect one's judgement. But I'm afraid I find that the contrary – and at times, untrue – nature of Mr A's testimony goes beyond just a lapse in judgement. And I've got to put that together with the other evidence at hand, e.g. that:

- Mr A received the confirmed proceeds of fraud
- Mr A acted very quickly to forward the fraudulent funds on to cryptocurrency platforms, in such a way that they couldn't be recovered, in a manner consistent with what I'd expect from someone involved in the fraud
- Mr A has not been able to sufficiently evidence he was entitled to the money, even where such evidence should have been straightforward to provide, and some of the evidence he provided does not appear to be genuine
- As far as I can see, Mr A has either benefitted from the fraud himself, or forwarded the fraudulent funds to someone else as a money mule would.

So having reconsidered the case, I've come to the same conclusion as before: that it was fair for Starling to close Mr A's account and register a marker against him at CIFAS. I realise this will come as a disappointment to Mr A, though it is not my intention to disappoint him. But I can't reasonably come to another conclusion in this case.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 2 August 2023.

Adam Charles
Ombudsman