

## **The complaint**

Mr R complains that Barclays Bank UK PLC added a marker about him at CIFAS, the national fraud database, when it closed his accounts.

## **What happened**

Mr R says he hasn't been involved in any fraudulent activity. The marker is preventing him from accessing financial products and gaining employment.

Barclays said it hadn't made any mistake. Fraudulently obtained funds had been paid into Mr R's savings account opened on that same day in January 2019. And then quickly transferred to his current account and accessed using his card and PIN. He hadn't provided an explanation of how someone else would have been able to do this.

Our adjudicator didn't recommend that the complaint be upheld. Mr R hadn't given a consistent account of what he said happened. He'd told Barclays that his wallet with his card was on the table with friends and he left it unattended. He realised the next day his card had gone. He told Barclays he had opened the savings account but hadn't spent the fraudulently obtained money. He couldn't explain to Barclays how his PIN was discovered. But he told this service that he'd been stopped in the street by a person asking him if he wanted to make 'quick money'. And he'd given his card and account details to that person and who had misused his account.

When he spoke to our adjudicator he said that this person hadn't done anything on the account. And so, he'd replaced his card and then lost his wallet. He'd kept all his security details including his PIN and online password hidden in his wallet. Mr R said he hadn't opened a savings account. Our adjudicator considered he was most likely responsible for what happened.

Mr R didn't agree and wanted his complaint to be reviewed. He said he wasn't happy with the outcome.

## **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.

I need to consider whether the report to CIFAS was made fairly. On this point, Barclays needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted. The evidence must be clear, relevant and rigorous.

What this means in practice is that a bank must first be able to show that fraudulent funds have entered the consumer's account, whether they are retained or pass through the

account. Second, the bank will need to have strong evidence to show that the consumer was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include allowing someone else to use their account in order to receive an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

I've taken into account guidance from CIFAS about cases where someone receives a fraudulent payment into their account like this – acting as a so called 'money mule'. And that relevant factors in deciding whether Mr R was deliberately complicit in what happened include whether he knew or ought to have known that the money wasn't legitimate, whether he may have benefitted from the money by keeping part and whether he has provided generic or inconsistent explanations.

I've looked at the information provided by Barclays about what Mr R told it and also at his complaint form to this service. And I've listened to a recording of his calls with our adjudicator. He has given very different explanations of what he says happened. And now says that he had both willingly given his account details to a person he'd just met with the expectation of unexplained financial gain. In addition, he had kept all his details in his wallet with his replacement card and had lost this and an opportunistic fraudster quickly decided to use his account.

I'm afraid I don't find his explanation to be reliable as he has been inconsistent. If he had given his details to a person he described as a 'random guy' and expected to make money then I'd think he would reasonably be responsible for the activity on his account. And that he couldn't think that this was legitimate even given what he says about his young age at the time. He also has no evidence to support this. His other explanation of losing his card and now his wallet hasn't been consistent. He now says that he had written his PIN down and didn't open the savings account used. It is further unclear to me why a fraudster would go to the trouble of opening such an account when on Mr R's version of events that person had free access to his current account. I consider it *most likely* he was complicit in what happened, and which may have involved him allowing someone else to use his account

Barclays says that it applied the CIFAS marker because Mr R received fraudulent funds into his account. 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. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

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

- Mr R received fraudulent funds into his account and didn't report this to Barclays at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Barclays had grounds to believe that Mr R had used fraudulently obtained funds based on the evidence it had.

In light of this I consider it was reasonable for it also to decide to close his accounts. I can appreciate Mr R will be very disappointed with my assessment given what he says about the impact of the marker for him.

**My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 16 August 2023.

Michael Crewe  
**Ombudsman**