

The complaint

Mr C complains that Starling Bank Limited recorded information about him with the fraud database Cifas.

What happened

Mr C had an account with Starling. In January 2021, Starling restricted the account and emailed Mr C to ask for further information about some payments into the account. Starling wanted to know more about Mr C's relationship with the payer, the reasons for the payments, and if there was a reason the payments he'd received weren't in his name. It also asked Mr C to let it know if he'd made the payments on someone else's behalf.

Starling didn't receive a response. So in February, having chased Mr C several more times for an answer, Starling decided to close Mr C's account.

Around a year later, Mr C tried to apply for an individual savings account with another bank. The application was refused, and the other bank closed Mr C's current account and savings account. It then came to light that at the same time Starling closed Mr C's account it recorded information with the Cifas national fraud database.

Mr C got in touch with Starling asking them to remove the marker. In response, Starling asked once again for information about the payments into Mr C's account. Starling asked Mr C whether he'd been instructed to carry out the activity on his account, why he'd been asked to do it, and whether he was promised anything in return. Starling also asked if he'd provided his Starling login details to anyone.

Mr C replied that he opened his account in 2020 and hadn't added any payees. He said he didn't recognise the payees on the statement. He also said that he was at work at the time the transactions were made – so they couldn't have been done by him.

Starling looked into this and said that although it was unable to remove the information from Cifas entirely, it would amend the loading to reflect its suspicions that the activity was carried out either by or following instructions from a third party. Dissatisfied, Mr C referred the complaint to us.

Our investigator looked at this, but didn't think the complaint should be upheld.

Mr C didn't agree. The complaint has been referred 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.

I don't uphold the complaint. I'll explain why.

Financial businesses like Starling are subject to legal and regulatory requirements. These mean that Starling need to have policies and procedures in place to combat financial crime - and may need to review accounts at any time.

And in order to register information with Cifas, Starling needed to carry out checks of sufficient depth to meet the burden of proof set by Cifas. There needed to be reasonable grounds for Starling to believe that a fraud or financial crime had been committed or attempted; the evidence needed to be clear, relevant and rigorous, and Starling needed to have closed the account on that basis.

In practice, this means that Starling needs to show that fraudulent funds have entered the account. Starling needs to have strong evidence to show the customer was deliberately dishonest in receiving the payment. When assessing whether the customer was complicit in any wrong doing, Starling needed to consider any evidence and testimony supplied by the customer. But if a customer declines or ignores opportunities to explain the conduct, then Starling can file information with Cifas without that explanation.

Mr C says he never used this account after he opened it in December 2020. But in January 2021, the account received payments of, in total, around £1,200. These were rapidly paid to another account belonging to a third party. As Starling explained in its final response, it received reports about some payments into Mr C's account. And when Starling contacted Mr C for information about these payments, Mr C ignored it.

With this in mind, I'm satisfied Starling was justified in loading information to Cifas. I note Starling emailed Mr C five times, over the course of a month, before it decided to close Mr C's account – and that these emails were sent to Mr C's usual email address. And while I don't doubt that subsequently losing access to his current and savings accounts was distressing, this isn't something I can hold Starling responsible for: those were decisions made by another business, and what happened in any case ultimately stemmed from Mr C's failure to explain, when questioned, what had happened to his account.

After Mr C got in touch with Starling, it looked at matters again. Mr C told Starling that he didn't recognise these payments. He says nobody instructed him to carry out any activity and that he never shared his login details. Starling, meanwhile, told Mr C that for someone to make the payments out of his account they'd need to have access to his account details. Moreover, Starling says that to add a new device on its app, the user needs to pass video verification. Starling has, however, amended the loading on the Cifas database.

Thinking about all of this, I don't accept that Starling's decision to maintain the Cifas loading is unfair. It's plain that someone was using Mr C's account – and these transactions took place very shortly after the account opened. Whoever did this needed at the very least to have the security credentials for Mr C's account – and had to use a verified device. Mr C at first ignored Starling's requests for information, and hasn't offered a plausible explanation as to how someone else might have gained access to his account.

Mr C, through his representative, suggests that the fact that Starling amended the information it logged with Cifas suggests it was inaccurate to begin with. But as I've explained, Mr C failed to provide the information Starling needed, and Starling only changed its position once Mr C contacted them. So this doesn't change my conclusion. Finally, I appreciate that Mr C would like further details of Starling's investigation. But Starling isn't required to share this information and nor would it be appropriate for me to tell Starling to share this with Mr C.

In all the circumstances, I conclude that Starling fairly registered the information with Cifas. So I'm not going to tell Starling to remove it.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 September 2023.

Rebecca Hardman
Ombudsman