

## The complaint

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

## What happened

In late 2022, Mr G received a number of payments from various individuals, which he quickly either forwarded to other accounts or withdrew in cash. These payments were reported as fraudulent. The senders had been scammed into paying Mr G – they were buying shoes online, then were blocked once they'd paid him, with no goods sent or received.

Mr G initially claimed he'd received the money from a close friend as a gift for helping them. A few days later, he gave Starling a screenshot of a message thanking him for some help, though the message and screenshot had been created just minutes before they were sent to Starling. Starling asked if Mr G had any evidence from before the incident, and chased Mr G for evidence, but Mr G didn't respond to that.

Starling closed Mr G's account and registered a marker against him at CIFAS.

Mr G came to our service. He then said he'd been selling shoes online himself, and the buyers had all submitted false claims against him. He said he didn't have any messages with the buyers as they'd all been deleted, and didn't have any proof of postage as he'd handed the shoes over in person and didn't keep any record of doing so. He didn't have any pictures of the goods as his old phone had broken and he didn't use cloud storage. He couldn't evidence ever owning these shoes as he'd bought them in cash and didn't keep the receipts. When we asked for evidence of how he'd got the cash, he didn't respond.

Our investigator looked into things independently and didn't uphold the complaint. Mr G appealed. He now says a friend carried out the fraud without his permission. He says he lost his card and had accidentally left his mobile app logged in on the friend's phone after borrowing it. We asked for further information about this friend and the wider circumstances, but Mr G didn't respond. We also gathered further information from Starling.

The complaint's been passed to me to decide.

I sent Mr G and Starling a provisional decision on 19 December 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 G 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 currently think Starling did have sufficient grounds to register this marker. I'll explain why.*

*Starling received a number of official fraud reports from different sources, showing that a number of different people had been scammed into sending Mr G money, which Mr G had then withdrawn or paid on such that it could not be easily recovered. The way he paid on the fraudulent funds is consistent with how a money mule or someone directly involved in the fraud would act. Mr G appears to have benefitted from the fraud. And his account had been used for little genuine activity beforehand – it was opened, then used for fraud soon after.*

*Mr G has given three contradictory sets of testimony, which makes it difficult for me to take any of his versions of events as being correct. But to be complete, I will address all three versions in order.*

*Mr G first claimed that the fraudulent funds came from a friend who he'd helped. But the money came from a number of different people, not one friend. And all these individuals reported being scammed into paying Mr G. Mr G was unable to evidence helping this friend. The only evidence he provided was a screenshot of a message, and I can't be satisfied that this evidence was genuine given it was created several days after the fraud incident and minutes before being sent to Starling. It's unclear why Mr G would forward his gift onto other new payees. And Mr G has since withdrawn this version of events. So I do not find it to be a likely or plausible explanation of what happened.*

*Mr G then claimed that he was entitled to the fraudulent funds as he'd sold goods. But he was unable to provide any evidence whatsoever of purchasing the goods, holding them, talking to buyers, or actually providing any goods, even when such evidence would be straightforward to provide. And when we asked him for other evidence about his business and the people he'd forwarded the profits to, he didn't reply. Further, it's highly unlikely that all these buyers would individually happen to report being scammed by Mr G in the exact same way if they were all just making up claims. So I don't find Mr G's second version of events to be likely or plausible either.*

*Mr G now says he didn't carry out the activity on his account; a friend did. There are a number of reasons why this is not likely or plausible.*

*The fraudulent funds were partly withdrawn at ATMs, using Mr G's card and PIN. While Mr G now says he lost his card, he didn't say that before, he never reported it as lost even when speaking to Starling right after, and he used it for genuine, undisputed spending of his on the same day as the fraud. Further, from what Mr G's told us, I don't see how his friend would know his PIN. He told our investigator he hadn't shared his account's security details anywhere, it was the same PIN that was provided when opening the account, it hadn't been viewed or changed, and he hadn't used his PIN for any physical card payments before this, so there was no opportunity for his friend to watch him enter it and learn it that way.*

*Similarly, even if Mr G had left his mobile app logged in on his friend's phone, his passcode and secondary password had to also be entered to set up the new payees and forward on the fraudulent funds. And again, Mr G told our investigator he hadn't shared such details. Indeed, he previously said he hadn't given anyone else access to his online banking at all.*

*The fraudulent funds were received and moved on using an IP address matching genuine activity of Mr G's. And Mr G had logged in beforehand using a live video selfie of him reading out a code he'd just been sent. Mr G told us he was aware of the activity at the time, yet when he spoke to Starling right after he not only didn't report the activity, but he also confirmed fraudulent activity as being his own and tried to claim entitlement to the fraudulent funds. And I can see that it was Mr G speaking to Starling as he logged in using a live video selfie, chatted with them from the same IP address he used when opening the account, and the correspondence also went to his email – the same email he uses to speak to us.*

*In summary, Mr G received, withdrew, and paid on fraudulent funds. His account activity is consistent with that of someone who was knowingly involved in the fraud. He's given inconsistent and implausible testimony, which has at points contradicted itself or been contradicted by objective evidence. He's not been able to substantiate any of his versions of events, even when such evidence would be easy to provide. And I've found no evidence which shows or substantiates that Mr G was an unwitting participant in the fraud.*

*So based on what I've seen so far, it seems fair that Starling closed Mr G's account and registered a marker at CIFAS. This is a difficult message for me to give, and I know it's a difficult message for Mr G to receive. But given the evidence I have so far, 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 16 January 2024. But neither party sent me anything new to consider.

### **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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case, I've come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 February 2024.

Adam Charles  
**Ombudsman**