

The complaint

Mr A complains that Starling Bank Limited ('Starling') registered a fraud prevention marker against him without due cause. He wants the marker removed.

What happened

In December 2021, Starling received an application purportedly from Mr A. They completed their usual searches and discovered the bank statements which had been submitted as part of the application process to show proof of address appeared to have been falsified. This was on the basis of multiple errors within the document, as well as formatting errors which led them to the conclusion the statement had likely been doctored. They decided to decline the application, and refer the matter to Cifas who registered a fraud prevention marker against Mr A. Specifically, they recorder a marker for 'false application'.

Mr A said that he:

- had not made the application, nor was he aware that the application was being made;
- never submitted the falsified bank statements as part of this or any application;
- only held one UK account, and it was not with the bank that the statement purported to be from;
- had sold his phone through his cousin who was living with him and did not fully remove his personal data from his device and thinks this could have allowed someone to obtain the information needed to complete this application. The device was logged into his email address which contained photos of his residence permit and passport, along with other personal data;

Mr A complained to Starling, who reviewed what had happened and declined to remove the Cifas marker. They said that in addition to the personal information provided at the time of the application, Mr A submitted video identification which matched the ID submitted.

Unhappy with their response, Mr A complained to our service and one of our investigators looked into what had happened. Our investigator initially recommended that the complaint not be upheld as there was no evidence that Mr A had sold his phone, or that someone else had gained access to his personal information, and he was most compelled by the video evidence that Starling provided from the application.

Mr A was not happy with our investigator's opinion on the matter. In summary, he said:

- the person in the video was not him, it was his cousin who looked like him;
- he decided to file a complaint with the police about what his cousin had done, but the police declined to register it as a crime as they could not act on it due to the passage of time and the lack of financial loss;
- he sold the phone through his cousin, and was paid in cash, so it was to be expected that he was not able to evidence that he sold the phone;
- he had sent off his residence permit around the time the application was made so he could not have had the original with him when someone tried to open the account.

They must instead have used photos of them which had been stored on his old phone/in his email account;

- whoever tried to open an account was not successful so he was unclear why this would be deemed a crime;
- Starling never tried to contact him such as via his mobile number to confirm whether he was making the application;
- the falsified bank statement was not a Starling statement so he does not understand why they are allowed to register a Cifas marker relating to it.

Mr A also provided our service with a series of photos which he said were of him, and of his cousin. He explained that the marker meant he had lost his job and he was struggling to gain access to banking facilities.

Our investigator considered the new evidence and initially suggested that the photos and video could be of two different people, and that there was a point of compromise for his personal details due to selling his phone. However, after receiving further information and photos, our investigator felt on balance that there was not enough evidence to say that Mr A's cousin was responsible for the application. They said that the photos and videos could well be of the same person, and that had the application been successful the information and card would have been sent to Mr A as all of his correct phone, email and address details had been used in the application.

Mr A remained dissatisfied, so the complaint has 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.

Having done so, I am reaching the same conclusion as our investigator did, and for broadly the same reasons. I'll explain why.

The marker that Starling applied is for application fraud. For Starling to record this it is expected to demonstrate that it had clear, relevant and rigorous evidence to show that in the course of an application process, Mr A submitted one or more material falsehoods, for the purpose of obtaining a benefit. They do not have to show that a fraud or financial crime has been committed say, beyond reasonable doubt. But they must demonstrate that there are sufficient grounds to believe a financial crime was committed or attempted – mere suspicion or concern is not enough.

It is not in dispute that the bank statements that were submitted as part of the application in December 2021 were not genuine. Mr A says he has never banked with the bank in question, and so the bank statements that purport to be his could not be genuine. So, it is clear that the person who made the application must have knowingly submitted documents which amounted to material falsehoods, in order to gain the benefit of an account. This was no innocent mistake by the person making the application, and so this element of the grounds for registering a Cifas is satisfied.

The matter that is in dispute here is whether it was Mr A who made the application which included the fraudulent documents, or whether it was his cousin. I have carefully considered this matter, and having done so I think it is more likely than not that Mr A did make the application himself. I say this because:

- Having carefully examined the photographs and video, I am not persuaded that there are two different people in them. This service is an informal service, and I do not purport to be an expert in facial recognition, but I think that Starling fairly concluded that the person in the video was the same person in the identification that were

provided in the application. The faces appear to my eye to be the same face, and there are multiple areas which are the same including the eye shape, facial shape, nose shape, hairline and facial hair. Whilst some of the photos and the video show someone with skin complaints, these can appear worse on different days or in different lights or photographs so I do not think this is conclusive. And Mr A was unable to provide a photo of him with his cousin, or anything else to satisfy me that there are two different men in the images.

- The application contained Mr A's genuine information including his email, address, and phone number. It would seem strange for Mr A's cousin to use all of Mr A's genuine contact details as if he had been successful in fraudulently opening an account in Mr A's name, it would not have remained hidden from Mr A for long. The card would have been sent to Mr A's address, and any communication that came with it would have been sent to Mr A's genuine details. It seems an unnecessary risk for Mr A's cousin to take if he were the one making the application here.
- Whilst Mr A said his residence permit was with the DVLA at the time of the application, this simply means a photo would have been used by whomever made the application whether this was him or his cousin. So, this does not change my opinion here.
- Mr A has made numerous points about the quality of the evidence Starling are willing to accept, including digital copies of documents, and photos of identification. It is not for me to determine how Starling conduct their business, my role here is to decide on this specific case.

So, having considered all of the evidence available to me, I think it was fair for Starling to attribute the application to Mr A. As there is no dispute that the application contained fraudulent documentation, it follows that I think it is fair and reasonable that Starling registered the Cifas marker against Mr A for application fraud, and as such I will not be asking them to remove the marker or do anything further.

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 10 August 2023.

Katherine Jones
Ombudsman