

## **The complaint**

Mr K complains that Barclays Bank UK PLC unfairly registered a fraud marker against him.

## **What happened**

In 2017 Mr K received a payment into one of his accounts that was later confirmed by another bank to be the result of fraudulent activity.

Barclays looked at the situation and decided to close Mr K's accounts straight away and registered a marker against him with CIFAS – a fraud prevention organisation. Mr K was unaware of the marker at the time and visited his local branch of Barclays to question why his accounts had been closed. Further information about the closure wasn't available to Mr K.

In early 2022, Mr K started to receive notices from his current banking providers that they were closing his accounts after completing periodical reviews. Mr K had a large loan at the time which needed to be funded from a different provider so the original loan could be repaid due to the immediate closure of his accounts. These accounts were linked to both Mr and Mrs K and the business under a limited company.

Mr K was advised to approach Barclays about his situation and after contacting them, he was made aware that they'd lodged the marker against him some years earlier. Mr K complained and denied knowing about the fraudulent payment entering his account. Mr K wanted Barclays to compensate him for the additional expenses he'd incurred, and the stress and worry caused by the various account closures that had happened. Barclays looked into the circumstances and decided to remove the marker. They told Mr K they couldn't evidence him accessing his online banking at the time or directly utilising the fraudulent funds.

Barclays declined to make any payment to Mr K as they didn't think they'd made any errors at the time based on the information they had available.

Mr K was left unhappy with Barclays resolution and brought his complaint to the Financial Ombudsman Service for an independent review. It was looked into by one of our investigators who considered the evidence provided by both parties. He later recommended that Barclays not pay any expenses or compensation to Mr K and thought that he should have followed up the account closure with Barclays at the time, which would have enabled the situation to be better understood by Barclays.

The investigator didn't think that Barclays had unfairly closed the accounts due to their belief at the time that Mr K had utilised fraudulent funds.

Mr K disagreed with the investigators opinion and responded, saying:

- He followed up the closure letter with a branch visit but wasn't told any detail about why his accounts had been closed.
- He was unaware of the fraudulent payment into his account and didn't use internet

- banking.
- Mr K asked how he could have done anything more at the time if Barclays didn't reveal what they'd done?

Mr K asked for a further review of his complaint which has now been passed to me for a decision.

I issued my provisional findings on the merits of Mr K's complaint on 16 May 2023. In my provisional findings, I explained why I intended to uphold Mr K's complaint and offered both sides the opportunity to submit further evidence or arguments in response. An extract of that decision is set out below and forms part of this final decision:

*"What I've provisionally 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.*

*CIFAS markers are a powerful tool in the fight against fraud and can have a significant negative impact on the person who has a marker lodged against them and they typically last for six years.*

*In order to lodge such a marker, the recording business (here Barclays) are required to meet stringent levels of evidence to satisfy the requirements laid down by CIFAS. In this complaint, Barclays decided not to ask Mr K at the time about the payment into his account and assessed the information they'd received and the way the account was used. By not raising the payment with Mr K, Barclays took on the risk of their decision without the benefit of Mr K's version of events.*

*At the time of the closure, Mr K attempted to find out more from Barclays who wouldn't explain the situation in any more detail. The account closure doesn't require them to explain the reasons why they've closed the account, but I disagree with the assertion that Mr K hadn't attempted to follow up with Barclays. If Barclays didn't raise the fraudulent payment with Mr K, how was he otherwise to understand the issue if, as he says, he knew nothing about the payment?*

*There is the question of the payment appearing on the statement and the subsequent removal of funds by Barclays. Mr K doesn't appear to have noticed these or made any comment about them, apart from stating that he was unaware of the fraudulent payment into his account.*

*Once Mr K was aware of the marker in 2022 and spoke to Barclays about it, it didn't take them long to review the evidence and decide to remove the marker. Having looked at the evidence myself, it's far from clear that Barclays had enough evidence at the time to lodge it.*

*Barclays told Mr K in their final response letter that:*

*"I can confirm that in February 2017, we received a report of a confirmed fraudulent credit coming into your account. We have spoken to you in more detail about this in June 2022. I completed a further investigation at that stage. This showed that you did not access your Online Banking facility before or after February 2017, therefore you did not have knowledge of this credit or its source. I was able to remove the CIFAS marker, as you did not directly spend any of the reported funds. I was not able to evidence that you were aware of the credit and therefore, do not believe that you were directly involved in the account activity".*

*It seems at the time in 2017, Barclays considered the receipt of the funds as knowledge of*

*the source of the funds and believed Mr K had directly utilised those funds. I'd point out here that the receipt of money into an account isn't under the control of the account holder, so on its own couldn't reasonably be evidence that satisfies the CIFAS requirements.*

*Barclays have themselves told Mr K they can no longer support the marker they lodged against him and that has only come about once he knew about it and gave his side of the story. So, I think it's reasonable to conclude here that overall, Barclays fell short of the standards required by CIFAS (explained in detail by the investigators report to both parties). There was an impact on Mr K, but not until 2022 when the account closures and loan were recalled.*

*Up until that point, it doesn't appear that the marker caused any other difficulties to Mr K. He was unaware of it and he'd been able to operate several bank accounts and acquire a loan. It was only after the various closure that the issue came to light, and it's from this point on that I'm considering the impact on Mr K.*

*The inclusion of Mr K on the CIFAS register was the likely cause of the various account closures he experienced. This included the request to immediately repay a large loan which required Mr K to find a different lender who was prepared to lend him a significant amount of funds.*

*I can't consider the impact on a limited company, as they're an entirely different entity as far as complaints against regulated businesses are concerned. So, I can only consider the impact against Mr K himself and any direct causal links of Barclays decision to improperly lodge a CIFAS marker against him.*

*I appreciate Mr K has provided some details of a loan and associated costs, but as far as I can see, they're related to the limited company he partly operates with his partner. If Mr K has evidence of costs associated to himself he thinks is the result of the marker, then I'll review them. It's apparent from the evidence that he's already sent in that several banking relationships were closed, likely the result of the marker.*

#### *Account closure*

*Barclays closed the accounts without notice, believing at the time that Mr K had operated them outside the agreed terms for the account by receiving funds from a fraud. The terms state that Barclays are required to have "reasonable grounds" to think that :*

- "You use or try to use your account illegally or for criminal activity, including receiving proceeds of crime into your account."*

*It's understandable that Barclays would close the account at the time after lodging a CIFAS marker. If Barclays had the full picture (Mr K's side of the story) at the time, they may well have decided to alter their approach. However, the only real impact at the time is that Mr K lost his bank accounts with Barclays, and he appeared to have moved on with his banking by obtaining accounts with other providers.*

*As the period of the stress and worry was principally from 2022, I'm currently considering the recommendation of a payment to Mr K of £500.*

*My provisional decision is that I'm currently minded to uphold this complaint."*

*I invited Mr K and Barclays to give me any more evidence and information they wanted me to consider before issuing my final decision. Barclays responded and thought the award*

payment was too high. Mr K submitted detailed figures arguing that the CIFAS marker had cost him in the region of £40,000 in additional loan and other costs associated with it.

### **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, and as neither party had anything further to add that would change my opinion, I see no reason to reach a different conclusion. So, this final decision confirms the findings set out in my provisional decision.

Regarding the submission by Barclays that the compensatory award is too high – I'd point out here that the result of their improperly lodged CIFAS marker caused all of Mr K's banking arrangements to be cancelled. He suffered a period of unnecessary stress as a result of it and was forced to make further arrangements. So, I don't think that the £500 award is too high, rather it's a fair and reasonable award based on the impact of the marker lodged against Mr K.

I'm grateful to Mr K for providing details of the cost he believes Barclays should be responsible for. Here, a number of those additional costs he's submitted relate to payments made by his Limited Company. As I mentioned in the provisional decision, I'm unable to take them into account as the company is a separate legal entity.

Mr K has also argued in relation to the substantive loan he was required to repay ( applied for outside of the Limited Co entity), that the actions of Barclays caused him financial loss. Mr K was later offered a loan by the same bank once the CIFAS marker was removed, but at a higher loan rate. Mr K believes Barclays should cover the difference between the two loans amounting to somewhere in the region of £40,000.

But, when the bank recalled the loan, they also offered Mr K the option of a repayment plan if he was unable to repay the loan in full. He later said that the loaning bank wouldn't assist him with the loan, but the offer to discuss a repayment plan appears to contradict that.

Whilst I'm satisfied that Barclays actions most likely caused the closure of Mr K's accounts, they had no say in how that bank handled the current loan (regarding repayment plans) or any new loan offer. In this case, Barclays responsibility for redressing the financial situation Mr K found himself in ended at the point the notice to close his accounts was made by the other bank. From then on, the offers and considerations made by the other bank were their own responsibility. I don't think it's fair or reasonable for Barclays to be held liable for decisions made by another bank related to the handling of the new loan.

I accept that Mr K was trying to organise the funding for his business, and it was no doubt stressful, but I'm not persuaded here that Barclays should pay anything further apart from the £500 which I've already explained.

### **Putting things right**

Barclays to make a payment of £500 to Mr K.

### **My final decision**

My final decision is to uphold this complaint against Barclays Bank UK PLC and they're

instructed to settle the complaint as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 17 November 2023.

David Perry  
**Ombudsman**