

The complaint

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

What happened

In summer 2022, Mr I received £600 over several payments. He withdrew each payment at a cash machine within minutes. The money came from fraud.

Starling asked Mr I about the payments and chased him for answers and evidence. Mr I said the money was from an old friend for selling them a phone. He said he'd get evidence, but then didn't provide any. Starling closed his account and registered a CIFAS marker.

The following year, Mr I complained. He now says Starling closed his account before he could properly address the matter.

Our investigator looked into things independently and didn't uphold the complaint. Mr I appealed, so the complaint's 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.

In order to register this marker, Starling were not required to prove beyond all reasonable doubt that Mr I 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 think Starling did have sufficient grounds to register this marker. I'll explain why.

The activity on the account is highly consistent with fraudulent use. For example, Mr I emptied his Starling account of his own funds beforehand, such that none of his own money could be used to repay the fraud victim. His account had little genuine usage in the lead up to the fraud, with just some transfers back and forth between accounts which look like test payments. Then when each fraudulent payment came in, Mr I acted very quickly to withdraw it in cash, which meant the funds couldn't be recovered once the fraud was reported. Mr I appears to have benefitted from the fraud himself.

Notably, the fraudulent funds were spread among three accounts of three customers, of whom Mr I was one. Each account followed the same pattern of fraudulent activity as Mr I's. And the cash withdrawals – especially Mr I's largest one – were so soon after the credits came in, that he would need to have been waiting near the machine ready to take out the cash as soon as the money arrived, despite it arriving early in the morning. This is very unlikely to be a coincidence. The activity strongly indicates a co-ordinated attempt to use the cash withdrawal limits of three different accounts, such that the group could withdraw the fraud victim's money in cash before the fraud could be reported and stopped.

If Mr I had really received this money from an old friend for selling them a phone, then this would have been quite straightforward for him to evidence. Yet he had no evidence of ever owning this phone, or of talking to his friend about it, or of selling it, or of delivering it. Mr I did provide an altered screenshot which he said showed him buying the phone before he sold it. But the names and profile pictures have been blacked out, and more importantly the messages are dated nearly two weeks *after* Mr I received the disputed funds for allegedly selling this phone. So I am not satisfied that this screenshot is genuine, and it does not substantiate that Mr I bought the phone which he said he then sold.

Mr I says Starling closed his account before he could address the matter. But that is clearly untrue – they spoke to him multiple times and chased him for evidence. In the end, it was Mr I who did not get back to Starling with the evidence he said he'd get. Mr I also says that the matter was too long ago for him to still have evidence. But it was only less than two years ago. And Starling asked him for evidence at the time, and chased him, yet he did not provide any. So I don't find that excuse to be credible.

A separate friend of Mr I's (not the one he allegedly sold the phone to) sent us an email vouching for him and his character. But while I respect this friend's camaraderie, my decision is not based on any judgement of Mr I's character; I am assessing the case based on the objective evidence at hand and the balance of probabilities. While I have read through the friend's testimony, it is ultimately their opinion and does not reasonably substantiate what Mr I has said. I've not received any evidence which actually shows that Mr I's testimony is likely to be true. Whereas the other evidence at hand strongly points to him being directly involved in – and profiting from – fraud.

Lastly, I've not seen any evidence which makes it seem implausible or unlikely that Mr I was knowingly involved in fraud.

In summary, Mr I received and spent fraudulent funds. His account activity, and the activity of the other accounts involved, strongly supports fraudulent use. Mr I appears to have benefitted from the fraud directly. Mr I has claimed entitlement to the fraudulent funds, but has been unable to provide any reasonable evidence to substantiate his entitlement, even when such evidence would normally be straightforward to provide. So it seems fair that Starling registered a marker against him at CIFAS. It's also fair that they closed his account, which they were allowed to do in this sort of situation under the terms of the account. This is a difficult message for me to give, and I know it's a difficult message for Mr I to receive. But given the evidence I have, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

Mr I and his friend pointed out that we've upheld other cases about CIFAS markers. But we look at each case on its individual merits. I've explained above why I don't think Starling need to remove the marker in this particular case.

My final decision

For the reasons I've explained, I do not uphold Mr I's complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 12 June 2024.

Adam Charles
Ombudsman