

The complaint

Mr K has complained that Lloyds Bank PLC registered a marker against him at CIFAS, the national fraud database.

What happened

In 2021, Mr K received £1,500 of fraudulent funds. He transferred some of it away in euros as an international payment, and sent the rest to another account of his.

Lloyds investigated, and Mr K told them the money was owed by the sender to his friend. The sender had claimed to be unable to make international payments, and the friend lived in Asia. So the friend had asked for the sender to pay Mr K, and then for Mr K to pay them. At different points, Mr K said he did not know the sender himself, had never met them, and all contact was done through his friend; or he said he did know the sender but not well, and that he'd spoken to the sender and they'd claimed to know nothing about the fraud. He didn't have any evidence of his contact with the sender or friend, nor of the debt.

Lloyds closed Mr K's account and registered a marker against him at CIFAS.

In 2023, Mr K complained. He now says the money was owed to his family member, rather than a friend. And he says he also used the money to buy equipment for the family member. He says all his contact with the people involved was verbal, he lost his invoice and receipt for the equipment he ordered, and after the situation he cut contact and deleted his emails.

Our investigator looked into things independently and didn't uphold the complaint. Mr K asked for an ombudsman to look at the case afresh, 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, Lloyds were not required to prove beyond all reasonable doubt that Mr K 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 Lloyds did have sufficient grounds to register this marker. I'll explain why.

Lloyds received an official report that the money Mr K received and spent was the proceeds of fraud. Mr K spent this money relatively quickly, meaning it couldn't be recovered once the fraud was discovered. And he benefitted from the fraud himself.

While Mr K says he was paying a friend or family member in Asia, the international payment he sent was in euros, which is not a currency used in the country which he says his friend or family member lives in.

While Mr K says used the funds to buy equipment for this friend or family member, there are no corresponding payments on his statements for either of his accounts which match the amount involved or which would feasibly be for such a purchase. As far as I can see, it seems that Mr K actually sent some of the fraudulent funds away in euros, and paid the rest to his other account and then used it for his own spending. And Mr K was unable to provide any invoices or receipts for the equipment he says he bought.

Mr K was unable to provide any evidence of any contact with the sender or his friend/family member either. He says that's because it was all verbal. But it's not likely or plausible that there would be absolutely no written contact between the parties if they were an arranging an international exchange of a significant sum of money through Mr K – not least when Mr K says he either didn't know the sender at all or didn't know them well. For example, at the least I would have expected them to confirm the account details, timings, and amounts in writing to avoid mistakes.

Mr K says that some time after this matter he deleted his emails, which meant he lost any relevant contact, invoices, or receipts. But Lloyds spoke with him about this matter at the time, so he would've been aware that he was in trouble, that his bank was investigating, and that his account had been blocked and was at risk of being closed. And he told Lloyds he didn't have any evidence. I don't find it credible that Mr K would withhold and then even *delete* evidence of his own innocence while aware he was being investigated. It's more likely that Mr K did not have any evidence of his innocence in the first place, as he told Lloyds.

I'm afraid I do need to note that Mr K's testimony has been notably contradictory. For example, at different times he's said different things about whether the money was owed to a friend or family member, what he was supposed to do with it, whether he knew the sender or not, whether he'd ever spoken to the sender or not, and so on. This makes it very difficult for me to rely on any of Mr K's versions of events.

Mr K said he could forward us a criminal record check. But that would neither substantiate his various versions of events, nor show he was an unwitting participant in the fraud. By definition, every person who gets involved in fraud will have a first time. And as I explained before, Lloyds did not need to prove beyond reasonable doubt that he'd done something wrong, nor get a criminal conviction, before registering this marker.

Lastly, while this is a more minor point, I note that Mr K's Lloyds account does not appear to have been used for much other than receiving and forwarding on sums at the time. For example, there was no regular income, household bill payments, or everyday spending. This would be unusual if Mr K was operating this as a genuine account. But it fits well with the possibility that he was using the account for fraud or knowingly acting as a money mule.

In summary, Mr K received, forwarded on, and benefitted from fraudulent funds. His versions of events have been inconsistent, implausible, and contradicted by the evidence at hand. He's been unable to provide any evidence he was entitled to the money, even when he should have had such evidence as a matter of course. And his account was used for little other than forwarding on money at the time.

So it seems fair that Lloyds closed the 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 K to receive. But given the evidence at hand, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

My final decision

For the reasons I've explained, I don't uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 6 May 2024.

Adam Charles
Ombudsman