

## The complaint

Mr M complains that Lloyds Bank PLC unfairly recorded an adverse fraud marker against his name and closed his account.

## What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

Mr M held an account with Lloyds. On 12 February 2024, Lloyds received a report of fraud regarding a transaction that credited Mr M's account on the same day for £2,500.

Lloyds contacted Mr M to ask him to account for the funds that had been received. He provided an explanation that Lloyds wasn't satisfied with, so it decided to close his account and place an adverse fraud marker against his name on the Cifas database.

Mr M later realised the fraud marker had been applied when it began to impact his financial accounts. So he complained to Lloyds and asked it to remove the marker. Lloyds investigated Mr M's complaint but found it had acted fairly. It therefore didn't uphold Mr M's complaint.

Mr M remained unhappy with Lloyds' outcome, so he came to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties but didn't recommend the complaint be upheld. They agreed that Lloyds was fair and reasonable in the action it took following the fraud report.

Mr M, via his representative, didn't agree. So the complaint was passed to me for a decision to be made.

On 8 November 2024 I issued provisional findings to both parties, setting out what I was minded to conclude. My findings were as follows:

### *"Was the recording of the Cifas marker fair?"*

*One of the relevant considerations here is set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards regarding this complaint are:*

- 1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.*
- 2. That the evidence must be clear, relevant and rigorous.*

*My interpretation of these standards is that a member cannot simply load a marker against an individual based on mere suspicion. It must be able to meet a higher bar; in that a customer was likely a witting participant in the alleged conduct. This has been reinforced by Cifas' Money Mule Guidance, which it released to its members in March 2020.*

*Having considered these standards, I'm satisfied that Lloyds has been able to demonstrate the first of the above two standards has been met. While I am unable to disclose the exact details of the report Lloyds received, it is clear this was a credible allegation of fraud by a third-party. And it can be confirmed that the funds stolen as a result of this fraud were transferred to Mr M's account on 12 February 2024.*

*I'm also satisfied Lloyds has been able to demonstrate the second of the above two standards for the following reasons:*

- Mr M has told our service that the third-party responsible for coercing him to receive and send on the fraudulent funds contacted him on a social media platform after finding his wallet. Mr M hasn't provided a reasonable explanation as to how this was possible. While Mr M has told our service that his driving license and bank cards were contained within the wallet, I cannot see how that would have allowed the third-party to find Mr M on the social media platform in question, considering the way in which it operates.*
- Mr M's testimony regarding his version of events isn't persuasive and, at times, is contradictory. Mr M told Lloyds that his bank card was contained within the wallet that was stolen, and that the fraudster was able to carry out transactions on the account without his consent due to this. Yet, Mr M called Lloyds on 12 February 2024 to say an attempted payment on his card had been declined. He also admitted in this call to carrying out a cash withdrawal of £500 that day. This was the same day the fraudulent funds were received into his account. Had Mr M had his wallet and card stolen at the time, I don't see how he would have known his card had been declined or have been able to withdraw cash without it.*
- Mr M, as part of his testimony, says that he was coerced into receiving the funds and transferring them out of the account. But he didn't transfer all of the funds from his account. He received the £2,500 on 12 February 2024, but only transferred £330, and then £70, to the account he was instructed to pay by the third-party. I find it likely that, had a fraudster coerced Mr M into laundering funds through his account, they would have likely asked for all the funds to be transferred on.*
- Mr M says he was asked to transfer these funds in order to pay for the services of a trading coach. I find it highly unusual that a trading coach would pay a third-party money, for that to then be used to pay them for their services.*
- Mr M doesn't appear to have contacted his bank to let it know his cards had been lost/stolen at the point he found out they had. In fact, contrary to this he contacted the bank after he'd discovered his card was in the possession of an unknown third-party and claimed he was still using them, as demonstrated in bullet point two above.*
- Mr M has been unable to provide any persuasive evidence to support his testimony. He has provided a screenshot of a chat within the social media platform where he was communicating with the third-party – but this contains no evidence to support what he has claimed happened. I also find it unusual that he has taken a screenshot of this particular set of messages, yet has been unable to provide the rest of the conversation due to the chats being deleted. I have noted however that within the messages, Mr M appears to indicate his card was declined at an exchange bureau, again indicating he had control of his bank card when communicating with the third-party.*
- Mr M has provided evidence to support the fact that he was not in the vicinity of the unauthorised transaction where they were carried out. But this evidence only covers*

*a period of 30 minutes and cannot be associated with Mr M in any way, as it merely shows a taxi journey. Mr M admitted on the telephone with Lloyds on 12 February 2024 that he had withdrawn £500 in cash that day, and the location of that cash machine does coincide with the location of those unauthorised payments. I can also see that a payment was attempted on 12 February 2024 to a bureau de change that was declined. This would appear to coincide with the limited messages Mr M has provided between him and the third-party where he claims his card was declined at a bureau de change. And it also coincides with why he told Lloyds he was calling them on 12 February.*

*Overall, I'm not persuaded by the testimony Mr M has given as part of his claim that he was himself a victim of crime. I therefore find that the application and retention of the marker is fair in the circumstances. Lloyds has been able to demonstrate it met the standards required by Cifas before recording the marker.*

### Account closure

*While I understand Mr M's primary complaint is regarding the recording of the Cifas marker, I can see he has expressed some dissatisfaction with the closure of his account when coming to our service.*

*Regulated firms, such as Lloyds, are entitled to close a customer's account as long as this is done fairly and in line with relevant guidance and regulation.*

*Here, Lloyds received a confirmed report of fraud for a payment that entered Mr M's account. He therefore posed a significant risk to the business in potentially allowing one of its accounts to launder the proceeds of crime. It is also a condition of loading a Cifas marker that the member terminates the product where the fraudulent activity has occurred.*

*I therefore find that Lloyds' decision to terminate the account, whether that have been immediate or with notice, fair."*

Both parties were allowed until 22 November 2024 to provide any additional evidence and comments before I reached my final decision. Mr M, via his representative, asked for additional time, which has now passed. I am therefore now in a position to issue my final decision.

### **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.

Lloyds hasn't provided any further comment to my provisional findings. However, Mr M's representative has provided additional evidence and comments for me to consider. Much of this is a reiteration of the evidence and testimony that has already been provided to our service. So I don't intend to respond to all of the points made, as these have already been commented on in my provisional decision.

Firstly, I think it's important to highlight that it is not my role to judge whether Mr M has been a party to the fraud or money laundering that has been alleged. My role is to make findings on whether Lloyds has acted fairly and reasonably in applying the Cifas marker, considering the burden of proof set out by Cifas and the evidence present. I do hope that Mr M understands this and doesn't interpret my findings as judgements of his character or integrity.

Furthermore, Lloyds is not expected to prove beyond all reasonable doubt that Mr M has been involved in financial crime when loading a Cifas marker. It must only present clear, relevant and rigorous evidence to support its position that Mr M was likely a witting participant in any allegations.

In response to my provisional findings, Mr M's representative says that many of the discrepancies and contradictions in his testimony were as a result of being coerced by the fraudster to lie to the bank when calling it. But I haven't been provided with any persuasive evidence to support this assertion. The evidence in front of me suggests Mr M's testimony doesn't match with what he told the bank. And this therefore brings into question the validity of Mr M's claims.

Mr M's representative has placed significant weight on Mr M's application for a new driving licence as evidence to support the theft of his wallet. And while I agree this goes some way to supporting his testimony, I cannot ignore the numerous other factors that counter Mr M's testimony.

Mr M's representative argues that a screenshot of a taxi journey that covers a circa 30-minute period in the evening of 12 February shows he was not in the vicinity of the location where the disputed payments were made. But this isn't sufficient to prove he didn't carry out the transactions himself. Nor does it rule out the possibility he provided the bank card and PIN willingly to the third-party.

Mr M's representative has also argued that the chat where he admitted to his card being declined in a currency exchange was him clarifying what he needed to say to the bank on the third-party's instruction. But the conversation prior to this message doesn't support that. Nor is there any acknowledgement from the third-party after this message. It simply reads as a statement of fact rather than a question or confirmation as to what he should say.

Lastly, in Mr M's recent submission he appears to have changed his testimony regarding how he and the third-party were introduced. Mr M now explains that the third-party was actually known to him previously as they went to a football club together. And that they were already connected on the social media application where they spoke. This differs to what Mr M told Lloyds when making his complaint.

I do have a great deal of sympathy for the position the Cifas marker has put Mr M in. And I want to reassure Mr M that I accept the possibility he was the victim of extortion and blackmail himself. But I must consider the evidence in front of me, and this supports the loading of the Cifas marker when considering the lack of evidence Mr M has to support his position. I must also fairly place weight on the inconsistencies in Mr M's testimony throughout his complaint with Lloyds and our service. As such, I find that Lloyds has been able to demonstrate it met the standards required by Cifas when loading the marker.

### **My final decision**

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 January 2025.

Stephen Westlake  
**Ombudsman**