

The complaint

Mr U complains that Metro Bank Plc has recorded a marker at CIFAS, the national fraud database.

What happened

Mr U opened accounts with Metro Bank in January 2018. He received a credit of £6,840 on 22 January 2018. This money was all paid away that day with part in cash withdrawals and part by sending faster payments. Metro Bank received a report that this money had been obtained fraudulently. It says Mr U wasn't able to show these funds were legitimately his. It closed his accounts and registered a CIFAS marker. Mr U complained and said that he didn't know the money was fraudulent.

Our investigator didn't recommend that the complaint be upheld. He said that the bar for registering a marker at CIFAS was a high one. Here Mr U had told him that he had agreed to receive about £600 for a friend who didn't have an account from that friend's Uncle. But he said he instead received a higher amount by mistake and needed to return it. Mr U accepted he made the payments from the account and was allowed to keep £300 for himself. There was no evidence to support his version of events. Mr U had quickly paid the money away saying that he had made the faster payments in smaller amounts, so these were less likely to be flagged. He had received a payment disproportionate to what he said he had done. And at the time he still had an account with a different financial business.

Mr U didn't agree and wanted his complaint to be reviewed. He said that the CIFAS marker is causing issues for him. He was doing a favour for a friend he knew and the money he was paid wasn't a significant amount for that person.

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.

I need to consider whether the report to CIFAS was made fairly. On this point, Metro Bank needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

The evidence indicates that Mr U opened his accounts at Metro Bank to receive these funds. He opened a current account on 17 January 2018 and a savings account on 19 January 2018. He still had an account elsewhere. This payment was received to the savings account at 14:06 on 22 January 2018 and was all transferred to the current account at 15:12.

The money was quickly paid away. Mr U accepts he took out £300 in cash at 16:00. He then had made some online transfers to a new payee of £1,900 by 16:09. He took out £2,000 more cash at 17:15. And then paid the rest of the money to the same payee by 17:50.

I've seen an email to Metro Bank from the email address Mr U has given to this service dated 3 September 2018 in which he says that *'someone must've obtained my details somehow and conducted all this. I was not involved in this'* and *'I've been a victim fraud or identity fraud of some sort.'* Metro Bank responded the next day to ask him to get in touch but there is no evidence he then did so. In August 2019 he raised a formal complaint about the CIFAS marker.

He has clearly given a different account now. And I don't find it credible that he didn't have suspicions about the source of this money. It was far more than he says he was expecting. He was paid a significant amount for paying this from the account. He did this quickly and on his account in a way to avoid this being flagged. And he has nothing to support what he says – or even say that he only retained £300 of the money given he also took out £2,000 in cash that afternoon. It isn't clear to me why he thought a friend was arranging for him to be sent all this money. And in my view he reasonably knew this money wasn't from a legitimate source or at the least that it might not be. He doesn't strike me as a victim of any scam himself here despite what he originally said to Metro Bank. I am afraid on balance that I think he was reasonably aware of what was happening and didn't act unwittingly.

Metro Bank says that it applied the CIFAS marker because Mr U received fraudulent funds into his account. So, I've looked at whether Metro Bank was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Metro Bank needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mr U's account of events and the evidence Metro Bank has provided, I'm satisfied that Metro Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr U received fraudulent funds into his account and didn't report this or do anything about this at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money. He kept at least part of the money.
- Metro Bank had grounds to believe that Mr U had used fraudulently obtained funds based on the evidence it had.

I understand what Mr U says about the impact he thinks the CIFAS marker is having on him, but I don't have a reasonable basis to require Metro Bank to remove it.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or

reject my decision before 30 October 2020.

Michael Crewe
Ombudsman