

## The complaint

Miss W complains that Metro Bank PLC has unfairly recorded a marker at CIFAS the national fraud database.

## What happened

Miss W says that the CIFAS marker is affecting her ability to obtain an account elsewhere and that she wasn't responsible for any fraudulent activity on her account.

Metro Bank says that Miss W received payments into her account of £2,500 on 11 September 2018 and £1,600 on 12 September 2018 that were both reported as being fraudulently obtained. It had spoken to Miss W on 13 September 2018 when she called about her account being blocked. She had told it these were payments to her as she was a musician, but she hadn't provided evidence of this. Her account was closed and a CIFAS marker added.

Our investigator didn't recommend that the complaint be upheld. On 11 September 2018 Miss W had taken out £300 of the first payment at a cash machine and £2,200 in a branch. The next day a new payment beneficiary had been created following a log in to mobile banking using Miss W's fingerprint. And a payment of £1,100 sent by faster payment to that new beneficiary. Miss W had also paid £80 to her mother.

He said that Miss W has subsequently given different explanations for the payments. She said that a friend had told her that he needed somewhere to pay in his student finance. He had also listened to recordings of the calls Miss W had with Metro Bank and in September 2019 she had told it that the money was being held for an ex-boyfriend. She also explained again to our investigator that she was a musician and was expecting a payment. And she said that as Metro Bank hadn't explained the payments when she spoke to it she wrongly thought this was money she was expecting. But our investigator noted that her bank statement showed she had never received any significant payments of that nature before and there was no legitimate payment attempted. Her balance was zero before the fraudulent payments in. He also thought it odd that the reference on the payments bore no relation to student finance and so ought to have raised suspicion. And that Miss W had used some of what she said was a student's money to send to her mother.

In conclusion he said Miss W hadn't given a consistent account of what happened. He considered she knew that this money wasn't from a legitimate source even if she didn't fully understand the consequences of moving it. He didn't think Metro Bank had done anything wrong.

Miss W didn't agree. She denied saying that the money came from a boyfriend. And she said it hadn't been her before on the call to Metro Bank. She has explained the impact the marker is having on her ability to obtain an account. She was only 17 at the time and didn't understand what was happening.

## 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.

I've taken into account the information Miss W has provided to this service. And I've listened to all the call recordings Metro Bank has provided. The calls with Metro Bank in September 2018 started with Miss W being verified using her security information. And then when she complained in 2019 by a secure code sent to her phone. So, I'm satisfied it was most likely her on the calls. In addition, during the call of 13 September 2018, she made correct reference to a prior call she'd made about her online banking account being locked. By that date all but £420 of the money had been withdrawn. And Metro Bank specifically referred to the amount of the payments Miss W had received. She's also talked to our investigator about being a musician and expecting payments. In the call she had with Metro Bank in September 2019 about her complaint she clearly says her ex- boyfriend had asked her to keep the money.

So, I agree Miss W has given differing explanations of the source of this money. She has not been able to substantiate any of these. The evidence is that she was in control of this money. And she withdrew and sent it on by faster payment. She can't explain why on her account at least she'd be able to keep some of that money if it was for a student. I note what she says about her age at the time this happened. But she's not said that she was say intimidated into acting by anyone else. And as I say she's given inconsistent explanations which makes it difficult to find what she now says credible.

I won't be able to say exactly what happened. But I'm satisfied on balance that it's most likely Miss W was aware that these weren't legitimate payments. And that her actions meant that this money was quickly moved on. I think she is fairly responsible for what happened.

Metro Bank says that it closed her account and applied the CIFAS marker because Miss W received fraudulent funds into her 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 Miss W'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:

- Miss W received fraudulent funds into his account and didn't report this to Metro Bank at the time.
- She authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Metro Bank had grounds to believe that Miss W had used fraudulently obtained funds based on the evidence it had.

I understand what Miss W says about the impact on her. But I'm afraid I don't have a reasonable basis to require Metro Bank to do anything further.

### **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 Miss W to accept or reject my decision before 9 December 2020.

Michael Crewe  
**Ombudsman**