



## **The complaint**

Miss M complained because Metro Bank Plc recorded a fraud marker against her name, with the fraud prevention agency CIFAS.

## **What happened**

Miss M opened an account with Metro Bank in June 2018. On 2 January 2019, £5,000 was paid into Miss M's account with Metro Bank. The same day, Miss M spent £3,000 and £2,000 at two different locations.

Shortly afterwards, Metro Bank was contacted by another bank, to say the £5,000 credit had been fraudulent. The other bank told Metro Bank that one of its customers had been tricked into paying the money. That customer had said that she and Miss M had met online, formed a personal relationship, and then Miss M had tricked her into transferring £5,000 for electrical goods.

Metro Bank wrote to Miss M on 8 January 2019 to say that it was no longer able to continue as her banker, and the account would be closed within 7 days. It didn't give a reason, but isn't required to. Miss M didn't respond.

In late September 2019, Miss M rang Metro Bank. She'd found out that Metro Bank had recorded a CIFAS marker for fraud against her name. She said she hadn't been involved in fraud, and complained.

Metro Bank didn't uphold Miss M's complaint. It told her that another bank had notified Metro Bank that the £5,000 paid in on 2 January 2019 had been fraudulent. Miss M said she hadn't been involved in fraud, so Metro Bank advised her to report it to the police to investigate. Metro Bank said that once the police had concluded their investigations and provided documents to say they believed Miss M had been a victim, it would review the fraud marker.

Miss M wasn't satisfied and complained to this service. She said the £5,000 had been a genuine transaction, and had come from a truck she'd sold. Miss M told our investigator that a friend had told her about a business opportunity abroad, for which Miss M wanted to buy a truck from that country. The friend had sent her photos of a truck, and it had been delivered to a port in the UK. Miss M hadn't seen it before she paid for it. When she and her partner went to collect it, it had a lot of damage so it wasn't suitable to send abroad. She'd asked the friend for a refund, but he'd said Miss M would have to sell it herself.

Miss M sent in a document which she said was an invoice from when she'd bought the truck in December 2018. This document is dated 12 December 2018, has a UK address from the purported seller, and a UK style vehicle registration number.

Miss M said that she'd sold the truck to the person who'd sent the £5,000 credit to her account. This person was the cousin of a friend. Miss M provided a copy of what she said was the sender's bank account statement, showing the payment to Miss M among other transactions.

Miss M's Metro account statements show that throughout the months when she'd had the Metro Bank account, there had been a pattern of other large credits which periodically credited her account – for example on 16 August 2018, 1 October 2018, and other dates. As with the £5,000 credit on 2 January 2019, Miss M had taken the money out the same day, each time leaving a very small balance in the account.

Miss M told our investigator that these other credits were "*group contribution savings*" which she co-ordinated.

There isn't a debit from Miss M's Metro Bank account in December 2018 for the £5,000 which she said she paid for the truck. When the investigator asked about this, Miss M said she'd bought the truck in cash, which she'd taken out of an account with another bank, in two lots.

This service obtained information about Miss M's account with the other bank. There were no matching large cash withdrawals before the time when Miss M said she'd bought the truck. The other bank had also taken the decision to close Miss M's account, which had happened in 2019.

The investigator upheld Miss M's complaint. She said it was reasonable in the circumstances for Metro Bank to have closed Miss M's account. But she didn't think Metro Bank should have put a CIFAS marker against Miss M's name. She thought Metro Bank should have spoken to Miss M before recording the marker, because the payment had genuinely been from a sale of a truck. So the investigator thought that Metro Bank should remove the CIFAS marker and should pay Miss M £100 compensation.

Metro Bank didn't agree. It raised multiple points, including:

- Any vehicle sale would be registered by transfer of ownership from one party to another, evidenced on the V5C document. Metro bank asked for copies to prove that Miss M had bought the truck, and had then transferred it to the person she'd said she'd sold it to;
- Metro pointed out that the transactions on Miss M's account were typical for the account activity of a "*mule account*";
- Miss M had provided no evidence or information about the "*group contributions savings*" which she'd said the large credits came from;
- And Miss M had generally taken those large credits out of the account instantly, either by money transfer or through retail merchants. This wasn't consistent with "*savings*";
- Metro Bank disagreed with the investigator when she'd said that the funds were genuine, because Miss M had provided what she'd said was a copy of the sender's bank statement. Metro Bank explained that it's common for fraudsters to be able to obtain such documentation, and it didn't prove a transaction wasn't fraudulent;
- The other bank's customer hadn't withdrawn her claim that the money sent had been fraudulent;
- Miss M hadn't challenged the closure of her Metro Bank account. If Miss M had been maintaining her account in line with its terms and conditions, Metro Bank believed she'd have challenged the closure.

## **My provisional decision**

I issued a provisional decision on this case. Before doing so, I considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

### *CIFAS marker – how it works*

CIFAS is a fraud prevention agency. It maintains a large database, in order to protect financial organisations and their customers against fraud. Member organisations contribute their own cases and can search the database. CIFAS and its members are responsible for the quality, protection and lawful use of the data. There are eight Principles in place.

The principle which relates to the standard of proof for entries reported to CIFAS is Principle 4. This sets out that:

*“Cases filed to the National Fraud Database must be supported by evidence and meet the “four pillars” of the Standard of Proof. The Standard of Proof is:*

- 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 such that the member could confidently report the conduct of the subject to the police;*
- 3. The conduct of the subject must meet the criteria of one of the case types;*
- 4. In order to file, the member must have rejected, withdrawn or terminated a product on the basis of fraud unless the member has an obligation to provide the product or the subject has already received the full benefit of the product.*

*All subjects involved that meet the standard of proof must be filed to the National Fraud Database. “*

In my provisional decision I went on to consider whether Metro Bank had sufficient grounds, in the light of this requirement, to record a marker against Miss M.

### *CIFAS marker and Miss M's account*

As the CIFAS principles set out, members must file the details of subjects – in other words, individuals – who meet the standard of proof. It's not optional.

Here, Metro Bank had closed Miss M's account on the basis of fraud (point 4) and the alleged conduct does fall into one of CIFAS' case types (point 3). So I looked in detail at points 1 and 2 – whether Metro Bank had reasonable grounds to believe a fraud or financial crime had been committed or attempted, and whether the evidence was such that Metro Bank could confidently report the conduct to the police.

I'd seen the notification sent to Metro Bank by the bank from which the disputed £5,000 payment was sent. This was categorised as a scam and shows that the sender claimed she'd been persuaded to transfer the money for electrical goods.

But I accepted that the evidence considered by Metro Bank was wider than the notification from the other bank:

- Miss M's account had a pattern of large incoming payments, all with immediate withdrawals. Metro bank had explained that this type of pattern is typical when fraudulent funds are involved. And although it could be innocent, I wasn't persuaded by Miss M's explanation, when she was asked about them, that these payments were “*group contribution savings*.” She didn't provide any evidence to support this, or explain any more about the nature of these savings. And she immediately took out the money for retail or money transfers, which weren't savings purposes. So I could understand why Metro viewed these transactions and the circumstances surrounding them as it did.

- Miss M didn't query Metro Bank's 8 January closure of her account. She did nothing until the end of September, nearly nine months later when she'd found out that the CIFAS marker was affecting her. While there could be reasons behind this delay, it does seem strange for a customer not to contact the bank quickly when the bank closes an account – especially if they have been using it for legitimate purposes and still need access to it.
- I agreed with Metro Bank that it's common for fraudsters to provide "evidence" of a sender's purported bank statement. And as the sender of the payment hadn't withdrawn her claim against Miss M, it seemed unlikely that person would have willingly given Miss M such a document. So the fact Miss M had this document doesn't automatically mean that Metro should have put its concerns to one side.
- I didn't find Miss M's account of the truck purchase and sale persuasive. She said it came from abroad, but I consider the purported invoice for buying it shows some inconsistencies with what I'd expect to see. On the Companies House website, the UK firm allegedly selling the truck to Miss M has a different address from that on the "invoice." The Companies House website also gives the firm's "Nature of business" as "Wholesale trade of motor vehicle parts and accessories." While it's in the same kind of industry, this clearly isn't the same as the import and retail sale of trucks.
- I also noted that when Metro Bank asked Miss M to provide V5C vehicle documents to show the sale and purchase were genuine, she didn't do so. These would be available for any registered transfers of ownership, to and from Miss M.
- Miss M also gave conflicting evidence about how she paid for the truck. When challenged that there was no applicable debit from her Metro account, Miss M said she paid for it by cash from another bank account. But as I've set out above, we obtained statements for Miss M's account – which was also closed – and they didn't show any such withdrawals.

Taking all these factors into consideration, my provisional decision was that Metro Bank had more than enough evidence to meet the CIFAS standards of proof. So it had reasonable grounds to indicate that Miss M had committed a fraud or financial crime, and that the evidence was clear, relevant and rigorous such that Metro Bank could confidently report Miss M's conduct to the police. CIFAS requires members to report such fraud. So I found that Metro Bank didn't do anything wrong when it recorded a CIFAS fraud marker against Miss M's name.

### **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.

Neither Miss M, nor Metro Bank, replied to the provisional decision. I've reconsidered all the available evidence and arguments. Having done so, I consider my original conclusions were fair and reasonable in the circumstances of this complaint and I do not uphold Miss M's complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept

or reject my decision before 20 January 2021.

Belinda Knight  
**Ombudsman**