

## **The complaint**

Miss W complains that Metro Bank PLC (“Metro”) registered a fraud prevention marker against her without due cause.

## **What happened**

In June 2015, Miss W received two payments into her account totalling approximately £240. After each payment there was a cash withdrawal, removing the funds from her account. Miss W said that at the time of the payments, she was 16 years old. She met an older male whom she really liked, and naively agreed to allow him to have funds paid into her account and withdrew them at his request. Following these transactions, she said she could not get in touch with the male – he never contacted her and ignored her attempts to contact him. It transpired that the payments into the account were fraudulent. She said she discovered this when she was contacted by the police and had to go to the police station for further questioning on this matter. She said there was no action taken against her as she was unwitting and used as a money mule.

Shortly after the two credits were received into and withdrawn from Miss W’s account, Metro received notifications from the sending banks that they were fraudulent funds. Someone had purported to be a male selling tickets to a festival on a selling website, and blocked them after they had sent the money. They reviewed the account in line with the terms and conditions, and made the decision to close her account and register her to Cifas in July 2015.

Miss W was unaware of the Cifas marker for some time. She had an account with another bank, that remained open for a long time but then was closed. Miss W tried to open a new current account and apply for a credit card, but kept being rejected. She discovered she had a Cifas marker registered against her. She complained to Metro – they said that they had acted correctly. They explained that they’d received the notice from the third party banks that her account had been used to receive fraudulent credits, so it was incumbent upon them to close her account and to report the matter to related independent agencies to combat fraud.

Miss W came to our service, and our investigator reviewed what had happened. They felt Miss W was being sincere when she explained that she had simply been a naïve victim of the male here – she had feelings towards him and he had taken advantage of this. They felt that Miss W hadn’t known that he was going to use the account for fraudulent purposes, so was simply the unwitting victim of the older male. They recommended that Metro remove the Cifas marker, and pay £250 compensation for the distress and inconvenience caused. Metro didn’t agree, it accepted that she was young but she willingly allowed her account to be used to facilitate fraud, whether she was aware of the origins of the funds or not. It said it would have expected her to have asked some more questions about what the payments were for. They also questioned whether we had seen evidence from the relevant law enforcement agencies to support her claims. As Metro didn’t agree, it has come 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.

Having done so, I have come to the same conclusion as our investigator, for broadly the same reasons. I'll explain why.

Due to the passage of time, the Cifas marker will have now been removed – they stay on the fraud prevention database for 6 years. So, the main finding I need to make here relates to the payment recommended by our investigator for the distress and inconvenience suffered by Miss W – but I'd need to be satisfied that Metro had acted incorrectly to make any such award. So, I will first consider whether I think it was fair and reasonable for the Cifas marker to be registered against Miss W.

The type of Cifas marker that Metro asked to be applied is for 'misuse of facility' – relating to the account being used to receive and withdraw fraudulent funds. In order to file such a marker, Metro are not required to prove beyond reasonable doubt that Miss W is guilty of a fraud or financial crime, but they must show that there are grounds for more than mere suspicion or concern. Cifas guidance says:

- "There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]
- The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.

So the relevant finding for me to make is whether I believe Metro had sufficient evidence to conclude that the money sent to Miss W was as the result of a fraud, and that she was deliberately dishonest in relation to this, such that it would be able to escalate its concerns to Cifas. I do not think Metro were entitled to do so, I'll explain why.

It's not in dispute that the funds were fraudulent. It is also not in dispute that Miss W allowed the funds to be sent to her account, or that she withdrew them for him. What remains in dispute is what she knew, or ought reasonably to have known, about the source of the funds and whether she was witting or unwitting in being used as a money mule. As outlined above, Miss W told our service that she had feelings toward an older male. She said when he asked if she could receive the funds, she didn't know about their origin of the funds or that they were fraudulent. And despite being taken in by the police, she was not charged with any offences. I do agree she should have asked more questions about why the older male needed to use her account – but I also think it is completely plausible that she didn't think someone she had feelings for would be using her account for nefarious reasons. The fraud wasn't particularly sophisticated or for large amounts of money – it was simply a festival ticket scam – so it is easy to imagine the older male wasn't known to Miss W to be some kind of criminal or someone involved in fraud. Miss W has been quite open about what happened, and I have seen nothing to suggest that she was aware that the funds could have been fraudulent until she was contacted by the police. I see no reason to doubt Miss W's account. For these reasons I conclude that it was not fair and reasonable that she had a Cifas marker.

I need now to consider the impact the marker had on Miss W. She wasn't aware of the Cifas marker for about four years – she was able to continue living without knowing about the Cifas marker, or without it impacting her, until June 2019. The existence of the Cifas marker came to light when Miss W was entering the workforce and wanted to open a bank account and apply for credit. At this stage, she was rejected by numerous businesses – and I think this is most likely due to the Cifas marker. Early adulthood and entering the workforce are quite pivotal times in a young person's life – it's the first time when Miss W would have been growing up and gaining financial independence. And I know finding out about the Cifas marker and the reminder of the difficult situation she found herself in when she was 16 would have caused her stress. It also caused her the inconvenience of having to make numerous applications and being rejected. When considering all of this, I do think our investigator's recommendation of £250 in recognition of the distress and inconvenience Miss W suffered as a result of the Cifas marker is fair and reasonable in the circumstances.

**My final decision**

My final decision is that I uphold this complaint and ask that Metro Bank PLC pay Miss W £250 in recognition of the distress and inconvenience caused by loading the Cifas marker.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 22 March 2022.

Katherine Jones  
**Ombudsman**