

The complaint

Miss A is unhappy that Metro Bank PLC closed her bank account and placed a fraud marker against her name.

What happened

In October 2019, Miss A received a payment into her Metro account for £3,500. A few months after the payment being made, Metro received notification from the originating bank that the funds were paid into Miss A's account as a result of fraud.

Metro wrote to Miss A and informed her it was closing her account in seven days. It also loaded a Cifas marker against her name due to the activity reported.

Miss A later discovered the marker as it was impacting her ability to obtain other financial products, so she made a complaint to Metro.

Metro didn't think it'd acted incorrectly. It pointed out that Miss A had received funds into her account that were reported as originating from fraud. It said that it'd closed the account in line with its terms and conditions and had clear evidence to support the loading of the Cifas marker.

Miss A remained unhappy with Metro's response, so she came to our service to look into the matter again. She told our service that a friend of hers had been in contact and asked if she could pay her wages into Miss A's account. She told Miss A that she was experiencing domestic abuse and didn't want her partner to have access to her funds. Therefore, Miss A felt she'd been a victim herself.

An Investigator looked at the evidence provided by both parties but didn't think Metro had made an error. She pointed out that Metro had closed the account in line with its terms and conditions. She also felt that Miss A was unable to support her testimony with evidence. She concluded that Metro had acted correctly in applying the Cifas marker.

Miss A disagreed with the Investigator's assessment. She maintained that she was a victim of fraud rather than a knowing participant of the laundering of funds.

As Miss A didn't agree with the Investigator's assessment, the matter has been passed to me for a 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.

Account closure

Metro has highlighted that it correctly closed the account in line with its terms and conditions. These terms state that Metro can close a customer's account if *'there has been fraud or other suspicious activity involving your account'*.

The terms also state that Metro can close the account immediately but will try to reduce the inconvenience caused to the customer if reasonable.

Here, Metro received reports that Miss A's account was being used to receive funds that had originated from fraud. This posed a significant risk to the bank of further fraudulent activity and I therefore find it reasonable that it gave Miss A seven days to rearrange her financial affairs prior to it terminating the account.

Cifas loading

While a business is a member of Cifas, that business must operate within the terms of its guidance and requirements. Metro can only record information with Cifas if it's supported by evidence and meets a certain burden of proof. These set out the following requirements:

- That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
- That the evidence is clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.

Broadly speaking, this means that Metro can't apply a Cifas marker if it merely suspects a fraud or financial crime. It needs to have sufficient evidence to back up what it's alleging and that the customer it's making the report against likely had knowledge of, or involvement in, that act.

Here, Miss A received funds into her account that were confirmed by an established third-party bank to have originated from fraud. The bank reported the funds as 'second generation', meaning that they didn't enter Miss A's account directly from their source, but were transferred to Miss A's account from someone who did receive the funds from the victim.

Transferring funds to numerous accounts following the initial fraud is commonly referred to as money laundering. There are however times where unsuspecting victims are utilised to transfer funds through their account or receive money unknowingly from fraud for goods and services provided. This is particularly common in second generation recipients and therefore presents a challenge when associating the activity to the original act.

Miss A claims that she is a victim of fraud herself. She's pointed out that a friend of whom she'd known for a few years asked her for help. They'd told her they were a victim of domestic abuse and didn't want their partner to get at their wages. So, they asked Miss A to receive the funds into her account and withdraw them in cash for them. Miss A claims that following discovery of the funds originating from fraud, the friend blocked her; and she's not been able to communicate with them since.

When asked for evidence to support her claims, Miss A was unable to provide any correspondences between her and the friend she helped. She says that messages were exchanged between her and her friend. But the device these messages were contained on was broken. Miss A says that her messages couldn't be recovered on a new device as she changed her number. She also attempted to access the messages from her old device after having it repaired, but again, couldn't recover the messages.

While I have no reason to disbelieve Miss A's reasons for no longer having these messages, it does mean that her testimony can't be corroborated by any supporting evidence.

Due to the above, I've weighed up other factors surrounding the circumstances of this complaint to make a finding on what I think is more likely than not to have occurred. Having

done so, there are a number of other factors I've considered:

- Miss A had received another payment of £3,500 twelve days prior from the same account where the fraudulent funds originated. There were no suspicions raised regarding this transfer and Miss A withdrew the full amount via a cash withdrawal the following day at a Metro branch. Miss A claims that this payment also originated from her friend for the same reasons.
- Miss A received the fraudulent funds (a further £3,500) on 23 October 2019 and on the same day transferred £3,490 to another account she held with a third-party bank. Miss A then withdrew £3400 from her account held with the third-party bank, transferred the remaining £90 back to her Metro account and withdrew this via a cash withdrawal. When asked why she'd done this, Miss A couldn't provide any reasonable explanation for the unusual manner in which she'd handled the funds.
- Miss A has explained that she transferred the funds to her other account as this bank was more accessible than her nearest Metro branch. But she can't explain the reasons why she withdrew less money than that sent to her and then returned the remaining funds to her Metro account.
- Miss A says that she knew her friend for close to three years and had met her through work. When challenged on some of the unusual features of these payments—such as wages being paid from a named person rather than from an employer and circa £7000 being paid to her in a few weeks via two payments—Miss A says that she didn't check the details of the payments. She also says that at the point she transferred the funds, her friend was no longer working for the employer where they'd both met.
- Miss A has confirmed that she hasn't reported the matter to police despite knowing sufficient information regarding the person responsible. When asked about this, Miss A told our service that she wanted to see the outcome of her complaint before pursuing things with the police. She also highlighted that she didn't trust the police due to cultural reasons and personal experiences.

I can't know for sure what occurred, but the combined factors above persuade me that the Cifas marker is fairly loaded against Miss A.

Miss A has received funds into her account that have originated from fraud. She's been unable to provide any corroborative evidence to support her testimony that she was an innocent party in the transfer of funds and was unaware of their origins. I also find that there is added weight to this argument from the suspicious circumstances around the movement of the money, the fact that not all funds have been removed from the account and the lack of any reporting to law enforcement.

While I acknowledge Metro could have done more to investigate the wider circumstances of the payment and given Miss A a chance to defend her position, I find that had it done so, the marker would have achieved the burden of proof required. Therefore, I won't be asking Metro to remove 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 Miss A to accept or reject my decision before 25 March 2022.

Stephen Westlake
Ombudsman

