

## **The complaint**

Mr D complains that Metro Bank PLC recorded a marker at CIFAS, the national fraud database.

## **What happened**

Mr D had accounts with Metro Bank. In 2016 his accounts were closed, and he wasn't told the reason why. In 2020 he found out that Metro Bank had recorded a CIFAS marker. He says that he paid in a post-dated cheque in 2016 for £500 before he went abroad. But that the person who gave the cheque to him didn't honour it and he is out of pocket. Since then he has made multiple applications for accounts and credit at other financial businesses that have been turned down. He wants his account re-opened and compensation of at least £2,000 for the impact on him and his family.

Metro Bank issued a final response to Mr D about this complaint in June 2020. It said that it received a notification from a third-party bank that fraudulent funds were paid into his account. And it had a duty to report this. When it submitted its business file to this service in October 2020 it said that as a gesture of goodwill it would remove the marker due to the amount of the cheque and the time that had elapsed. It said it wouldn't re-open the accounts.

Our investigator recommended that the complaint be upheld and Mr D paid £400 in compensation. He said that the bar for adding a CIFAS marker was a high one and he hadn't seen sufficient evidence to support the marker being added. He said that Metro Bank had since offered to pay Mr D £100 in compensation as a gesture of goodwill. Mr D didn't accept this as sufficient. There was no specific evidence of financial loss, but Mr D had been caused trouble and upset. Mr D had confirmed he would accept a payment of £400 in settlement.

Metro Bank said it didn't agree to pay £400 amount of compensation and offered £150. It said there were nothing specific to show Mr D had been turned down for other accounts because of the CIFAS marker. As Mr D didn't accept its offer it wanted this reviewed by an ombudsman. It said it was unreasonable to hold it responsible for the actions of other financial business in response to an advisory marker. This compensation was high in relation to other similar cases.

## **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.

Metro Bank accepts it has limited information about what happened in 2016. I would expect it to keep the records that support the marker being added. Mr D has said no more than he

paid in a post-dated cheque. I haven't seen any evidence to show that he knew, or ought to have known that this cheque was fraudulent or counterfeit – if that was the case. And it would be unreasonable now to expect him to show that this was a legitimate payment.

While I appreciate Metro Bank has now removed this CIFAS marker as a gesture of goodwill I'm not satisfied it had grounds to apply it in the first place on the basis of the evidence it has presented including details of any investigation. I would have expected it to retain the material that supported the application of the marker.

I agree with our investigator that Mr D hasn't shown that the CIFAS marker caused him a specific financial loss. And given what he says about being turned down for other accounts he could potentially have looked into why this was happening earlier. But he's provided a letter in January 2020 from a third-party bank declining his application and advising him to make a subject access request to CIFAS. I think it's a reasonable inference that the CIFAS marker then in place was a relevant consideration for that bank. I understand that the marker was removed by December 2020. And Mr D had confirmation from CIFAS that there was nothing recorded in March 2021 after he contacted it. So, although he refers to another bank closing his account in March 2021 he would need to contact that business directly about the reasons.

### **Putting things right**

I'm afraid it was a matter for Metro Bank to decide whether to offer him an account. But Mr D has been caused trouble and upset by what happened with the CIFAS marker. I take into account our published guidelines and I am forming my own judgement about the circumstances of this specific case. I have found that the marker wasn't applied fairly, and I note it was in place for over four years. And that Mr D was aware of this for a number of months and had to refer this matter to this service after he complained before this was addressed. I consider that the compensation recommended of £400 is reasonable to reflect what has happened.

### **My final decision**

My decision is that I uphold this complaint and I require Metro Bank PLC to pay Mr D £400 in addition to the removal of the CIFAS marker as it has already done.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 6 August 2021.

Michael Crewe  
**Ombudsman**