

The complaint

Mr B has complained that Metro Bank PLC registered a marker against him at CIFAS, the national fraud database.

What happened

In 2017, Mr B raised a dispute for a number of transactions he wasn't sure he recognised, totalling £627.48. Metro temporarily credited this amount to his account.

Later, Metro received information from some of the merchants indicating the transactions were genuine. They closed Mr B's account immediately and registered a marker against him at CIFAS. By that point, there wasn't enough money left in Mr B's account to take back all the temporary credits, so Metro wrote off the remaining £476.48.

Mr B complained, explaining he had memory issues following a serious injury, and he'd just been mistaken. He said he'd simply been unsure about the payments, and it was Metro's staff member who'd told him to report them as fraud. But Metro wouldn't change its mind as it didn't have evidence of his medical condition.

Our investigator looked into things independently and upheld the complaint. They said Metro should have spoken to Mr B and investigated properly before adding the marker. They received correspondence from Mr B's carers about his condition, and found his testimony to be plausible.

Metro didn't agree, so the complaint's been passed 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.

I need to consider whether this report to CIFAS was made fairly. On this point, Metro needed to have more than just a suspicion or concern. It needs to be able to show that it had reasonable grounds to believe that fraud or a financial crime had been committed or attempted, backed up by evidence which would support it being reported to the authorities.

Both sides now accept that the transactions were probably genuine. But Mr B says he was simply mistaken, and that in fact it was Metro's suggestion to raise the dispute when he wasn't sure about certain payments.

Metro has not provided any reasonable evidence to show what was said when they first spoke to Mr B about these transactions. And once they heard back from some of the merchants, they simply added this marker without speaking to him first, or trying to clarify the situation, or carrying out an appropriate investigation. They didn't even look into all of the transactions involved – so for all we know, some of them may well have not been genuine.

This is a point of concern. CIFAS markers are not blunt tools to penalise customers for raising disputes that Metro don't agree with. Metro also said Mr B used bad language – but that's irrelevant to this CIFAS marker, too. On its own, these disputed transactions being genuine is not a good enough justification for this particular CIFAS marker – as in this situation there was every chance this was a mistake by Mr B, or even mis-advice on Metro's part. Metro needed to have more than just a suspicion: it needed robust evidence to show that this was a deliberate, knowing attempt to commit fraud – and not just a mistake or misunderstanding. And that evidence needed to be good enough to support a report to the authorities. But I cannot see that Metro has such evidence, not least because it did not investigate things properly at the time, nor hold onto the relevant records of what was said.

Mr B's testimony has been clear and consistent – even across multiple years of correspondence. I've also seen correspondence about the care he receives for his memory issues. So it seems really quite plausible that he may have had genuine trouble recognising these transactions, and that this was all just a misunderstanding. I've not found a good reason to disbelieve him.

It follows that I direct Metro to remove the marker in dispute.

I've also thought carefully about the wider impact this will have had on Mr B. He's described his difficulty in keeping accounts open, and the distress this matter has caused him. And it would have been most disruptive having his account closed without the proper notice. So understandably, Mr B has asked us to consider compensation.

When a business gets things wrong, we often tell it to pay compensation – to acknowledge its error and the impact it had. In this case though, I do note that Metro asked Mr B for evidence of his medical situation as far back as 2017, but he didn't provide any at the time. And if he had done, I think this matter could have been resolved much earlier. Further, Mr B received a refund of £476.48 worth of transactions which later turned out to most likely be genuine. Metro wasn't able to take that money back, and instead of chasing him for it, it shouldered the loss and wrote it off. And that amount is larger than the amount of compensation I would have awarded here. So taking everything into account, I don't think it would be fair for me to award anything further in this case.

Putting things right

I direct Metro Bank PLC to remove the CIFAS marker in dispute.

My final decision

For the reasons I've explained, I uphold Mr B's complaint, and direct Metro Bank PLC to remove the fraud marker in question.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 December 2021.

Adam Charles
Ombudsman