

The complaint

Miss S has complained that Metro Bank PLC registered a marker against her at CIFAS, the national fraud database.

What happened

In December 2018, there was an attempt to pay around £1,100 into Miss S's Metro account. The payment attempt had come from a victim of fraud whose online banking had been compromised. Their bank stopped the payment, so it never reached Miss S's account.

Someone also tried to make a test payment of a small amount from Miss S's account to a different bank, but this was declined too.

Around the same time, Miss S found that she'd been locked out of her own online banking and her security details were no longer working. She had to have a lengthy call with Metro to get her account unlocked.

The sending bank reported to Metro that someone had tried to pay fraudulent funds into Miss S's account. Metro did not speak to Miss S about this, nor tell her about the attempts to pay money into or out of her account. Instead, they blocked her account, later closed it, and registered a marker against her at CIFAS.

Miss S was unable to keep a bank account after this. After declining her, one bank advised her to check her CIFAS records, and so Miss S found out about the marker. She complained. She explained she'd been unaware of the attempt to pay fraudulent funds into her account, she hadn't been expecting the payment, and as far as she knew she only received her regular student finance.

Our investigator looked into things independently and upheld the complaint. They noted Metro's lack of investigation and that they never got Miss S's version of events. They found nothing substantial to show that Miss S was aware of the attempts to pay money into or out of her account. They proposed that Metro remove the marker.

Metro didn't respond to our investigator's assessment, nor provide any further evidence to back up the marker. The complaint's been passed to me to decide.

I sent Miss S and Metro a provisional decision on 14 April 2022, to explain why I thought the complaint should be upheld. In that decision, I said:

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. They need to be able to show that they had reasonable grounds to believe that fraud or a financial crime had been committed or attempted. And this all needed to be backed up by evidence so rigorous that Metro could confidently report it to the authorities.

At present, I can't see that Metro had reasonable grounds to believe that Miss S had attempted a crime, nor that they had much evidence at all to back up such a suspicion – let alone evidence rigorous enough for a CIFAS marker.

Metro appear to have assumed that since Miss S was having trouble with her online banking, it must mean she had something to do with the use of the victim's online banking and the attempt to pay money out. But Metro have not provided any evidence to show that it was Miss S who attempted either the payment into her account, nor the test payment out. And on the face of it, without any supporting evidence their assumption doesn't seem to make much sense.

For example, given that the fraud victim's online banking was accessed without any clear point of compromise, and given that Miss S lost access to her own online banking around the same time with her security details no longer working, the most obvious explanation would be that Miss S was also hacked – not that she was the hacker. Indeed, it seems odd if Metro think that Miss S was so technically skilful that she could access the victim's online banking without any clear point of compromise, but also so technically illiterate that she'd lock herself out of her own online banking at the same time. Again, it would make much more sense if someone had tried to gain access to Miss S's online banking without her consent and locked her out in the process.

Further, the fact that there was an attempted test payment out of Miss S's account tends to suggest that her account was being used to pass on the funds, rather than that she was the one who would profit. And from the timeline Metro provided, it appears that Miss S was locked out of her online banking around the time of the fraud. So if she was unable to access her online banking, how exactly do Metro think she was able to make the outwards test payment? Again, a more reasonable explanation would be that someone else was trying to move money without Miss S's permission.

Metro never asked whether Miss S was entitled to or expecting these funds – for some reason they only checked her entitlement to her regular student finance payment. And Miss S has never claimed she was expecting or due the attempted inward payment. She said the only money she was expecting was her regular student finance.

Miss S's account otherwise looked very much genuine. By December 2018, it had been open for some time and she had used it for normal, regular spending. So I'm reasonably satisfied that this is not a case where the account was opened in order to commit fraud. There's nothing about Miss S's usage that seems to be a good basis for concern.

Lastly, I've not seen any evidence which actually substantiates that Miss S authorised, knew about, or otherwise consented to the attempted inward or outward payment.

Metro argue that they added this marker in good faith. But based on what they've sent me so far, I cannot agree. I struggle to see on what basis Metro think they had enough evidence to report this to the authorities, given that they simply added this marker without speaking to Miss S or trying to clarify the situation, and given that they don't appear to have carried out any appropriate investigation. This is a point of serious concern. CIFAS markers can have severe effects on a customer, and should not be added without serious consideration.

Here, Miss S has detailed her trouble getting or keeping a regular bank account over the years, and she sent us evidence of her declined applications. This caused significant disruption to her life for a long time. She also told us about the considerable distress, upset, and worry this all caused her, and the impact it had on her mental health over many months – not least as the marker would affect her upcoming career. Metro need to put that right.

I said I'd consider anything else anyone wanted to give me – so long as I received it before 28 April 2022. But neither Miss S nor Metro sent me anything new to consider.

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 side have sent me any new evidence or arguments. So having reconsidered the case, I've come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

Putting things right

I direct Metro Bank PLC to:

- remove the CIFAS marker in dispute; and-
- pay Miss S £750 compensation for the trouble and upset they caused.

My final decision

I uphold Miss S's complaint, and direct Metro Bank PLC to put things right in the way I set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 26 May 2022.

Adam Charles
Ombudsman