

The complaint

Mr J is unhappy that Metro Bank PLC (Metro) closed his account and registered a fraud marker against him.

What happened

In May 2021, Mr J says he saw an advertisement on a social media site about people making money through trading in cryptocurrency. Mr J says he contacted the person who was running the advert and was told they could show him how to make money through trading. Mr J says the trader looked legitimate, saying they shared direct messages from people they'd helped who had made money through trading. Mr J says the trader offered to help him trade for free as he wanted to build his business and get more people on board.

Mr J says the trader asked for his bank details, which he provided.

In June 2021, Mr J was contacted by Metro who told him they were closing his account and giving him seven days notice. Mr J says that as part of closing his account Metro applied a CIFAS marker, which has meant he hasn't been able to open a new account – although he does have a separate account held with another bank.

Metro say they took the decision to close Mr J's account after receiving a fraud report from another bank. The fraud report said that a customer of the other bank had been the victim of fraud and as part of that fraud £5,000 had been taken from their account and paid into Mr J's account.

In talking to Metro about his account closure, Mr J says he became aware of the £5,000 paid into his account as well as two payments made out of his account. Mr J says these payments were made by the trader without his knowledge. Mr J raised a complaint with Metro, saying it wasn't fair they were closing his account and asking them to remove the marker.

Below is a list of transactions made on Mr J's account, as well as information about devices registered which were used to make those payments. The payments in bold are payments Mr J says he didn't make. All of the payments were made through the Metro mobile banking app and using Mr J's security details/login.

Date	Time	Description	Amount
9.5.2021		Phone A registered with Metro (Mr J's phone)	
14.5.2021		Payment to C – new payee set up and payment made from Phone A	£1
25.5.2021		Phone B registered with Metro	
25.5.2021		Payment to C – made from Phone B	£1
28.5.2021		Payment to C – made from Phone B	£20
29.5.2021	16:34	Credit to Mr J's account (subject of fraud report)	£5,000 cr
	16:40	Payment to C – made from Phone B	£2,000
	16:51	Payment to C – made from Phone B	£2,980

Metro considered Mr J's complaint but told him that they wouldn't be changing their decision to close his account or remove the marker. They explained that all of the payments out of Mr J's account were made via their mobile banking app on two separate phones registered on Mr J's account. Metro explained that in order for a fraudster to download their app and access Mr J's accounts they would've needed Mr J's 12 digit customer number, his eight digit security number, password and access to the One-Time Passcode (OTP) which was sent to Mr J's mobile phone (Phone A).

Unhappy with Metro's response, Mr J brought a complaint to our service.

An investigator looked into Mr J's complaint and didn't uphold it. In summary, they felt Metro had acted fairly in applying the CIFAS marker and closing Mr J's account.

Mr J disagreed with the investigator's opinion, saying:

- the CIFAS marker lasts for 6 years and this will have a huge impact on him.
- he didn't understand the importance of giving his banking information to the trader.
- he was hesitant and didn't think giving his bank details to the trader was a good idea – but the trader pushed him into doing it.

As Mr J disagreed with the investigator's opinion, the case was passed to me to review.

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've reached the same outcome as the investigator and for the same reasons.

In this case, Metro asked for a CIFAS marker to be applied for "misuse of facility" – relating to the account being used to receive fraudulent funds. To file that marker, Metro aren't required to prove beyond reasonable doubt that Mr J is guilty of fraud or financial crime, but they must show that there are grounds for more than mere suspicion or concern.

In short, I'm satisfied that Metro has fairly applied this marker for the following reasons:

- Mr J initially told Metro that he gave the trader his bank account details, however there is evidence that Mr J also gave out his security log in details for his mobile banking including a One-Time Passcode (OTP) - which allowed the fraudster to download and use the Metro mobile banking app to access Mr J's account. Mr J has been unable to provide a legitimate reason as to why this information would be necessary in order for the trader to make trades on his behalf.
- It's unclear why the trader would want access to Mr J's mobile banking and the ability to view his balances and move money in and out of his accounts in relation to trading. Especially as Mr J's account balance was rarely over £100, so there were no funds in Mr J's account that could've been used for trading.
- Mr J says that he wasn't aware the £5,000 had been paid into his account, or that two payments were made out of his account for £2,000 and £2,980. However, prior to these payments Mr J had set up C as a new payee and made a payment for £1. This same payee was used for the two large payments that were made out of his account.

Mr J is unable to explain why he needed to set the payee up or make the payment of £1.

- Mr J has been inconsistent in what he's told us and what he's told Metro. It's unclear exactly what his arrangement was with the fraudster, or what Mr J was told. Mr J is unable to provide any of the communication he had with the fraudster. Because of this, it's unclear why the fraudster would trade on Mr J's behalf for free when it appears that Mr J didn't send any funds to the fraudster to enable trading.
- Mr J told us in response to the investigator's view that he was hesitant and didn't think giving his bank details out was a good idea, but that the trader pushed him into doing it. I'm not satisfied that Mr J acted reasonably in sharing his security information and banking information to a degree that it allowed someone to register a mobile phone with Metro, download the Metro app then log into Mr J's account and have full access to his Metro banking.
- Metro received a fraud claim in relation to the £5,000 payment made into Mr J's account. The report also included a separate payment of £1,000 which was also made to Mr J's account, but which was stopped by the bank and not credited to his account. From what I've seen, Mr J wasn't entitled to the funds from either payment and there is sufficient evidence to show that Mr J's account was used for the receipt of fraudulent funds.

It's unclear exactly what the arrangement was with the trader, or what part Mr J played in the movement of the funds. However, I'm not satisfied that Mr J has acted reasonably in providing his security information to the trader, which allowed them access to his account and the ability to send on the money received into Mr J's account as a result of fraud.

I also considered whether Metro acted fairly in closing Mr J's account.

I can see the terms and conditions that apply to Mr J's account allow Metro to "*suspend or stop providing their service*" for a number of reasons, including "*you have used, are using or getting, or may use or get a service or money illegally, fraudulently or improperly, or that someone else acting on your behalf may do so.*" The terms and conditions also say that Metro may stop offering the service immediately.

From what I've seen Metro gave Mr J seven days notice of their intention to close his account. Based on the information we have regarding the money paid into Mr J's account, the funds moved out of Mr J's account and the access that he gave the fraudster to his account – I can't see that Metro acted unreasonably in closing his account.

While I appreciate that Mr J is now having difficulty opening a new bank account, I'm satisfied that Metro acted fairly and reasonably in closing Mr J's account and applying the CIFAS marker.

My final decision

My final decision is that I don't uphold this complaint against Metro Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 26 July 2022.

Lisa Lowe
Ombudsman