

## The complaint

Ms F complains that Metro Bank PLC registered a marker at CIFAS, the national fraud database.

## What happened

Ms F opened the account in October 2017. She was then 16 and was at college. She says that her older boyfriend, who lived opposite the college and who she was staying with, accessed her account. He told her that his mother had sent a payment of £9,800 to her account and he had transferred most of this to his siblings. She also says that *“he then manipulated me and forced me to transfer the money”* to her account at a different financial business. And said that he went on at her about this *“...for a whole day before being pushed around a little bit before me doing the transfer.”*

Metro Bank said it received a report from another bank that the payment of £9,800 and a further one of £500 were reported as fraudulently obtained as part of a scam. The money was credited to Ms F’s account on 5 December 2017 and all but some £44 paid out that day. There were two payments to Ms F’s account at another financial business – one for £50 and the other for £1,150. Metro Bank had closed her account and added the marker.

Our adjudicator didn’t recommend that the complaint be upheld. She said that CIFAS guidance for a marker were:

*“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]  
The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

She had asked Ms F for copies of her bank statements at the other financial business the transfers were made to. Ms F hadn’t provided these or her signed consent for this service to contact that business for information. So, our adjudicator said she couldn’t safely say where that money had gone. She has also asked Ms F for information about her report of this matter to police but not received anything either. She noted that when Ms F opened the account at Metro Bank she claimed to be in employment and earning £1,800 a month and that wasn’t true. There were discrepancies in her account of how far the nearest Metro Bank was when she opened the account. And it wasn’t right that the branch of the business that she’d transferred part of the money to was near the college either. Ms F had said she left her Metro Bank card and one for a different bank (not the one used for the transfers to her) in her bag at her boyfriend’s home. It was unclear why that other account wouldn’t have been used.

Ms F didn’t agree. She said that it was unfair that this marker had been in place for so long. She said that it would have been impossible for her to get this amount of money and move it around. Ms F was then 16 and wasn’t going to know how to ‘hack’ a bank. She had seen how these things happened to vulnerable people. Her memory of what happened isn’t complete now as she has had mental trauma. She was put under pressure to do this. And her mistake was to say she had a job – she did in the end get a job as she intended. She

disputed how far it was to the Metro Bank branch and said she could have walked there in the time she said. She wanted this marker to be removed given the impact it is having on her.

### **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 won't be able to say *exactly* what happened and I'm thinking about what is *most likely*. I think Ms F has had a reasonable period of time to provide any further evidence and she hasn't done so. And I consider I can fairly make my decision on what is available.

The issue is 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.

I've taken into account guidance from CIFAS about cases where someone receives fraudulent payments into their account like this – acting as a so called 'money mule'. And that relevant factors in deciding whether Ms F was deliberately complicit in what happened include whether she knew or ought to have known that the money wasn't legitimate, whether she may have benefitted from the money by keeping part and whether she has provided generic or inconsistent explanations.

I've listened to the call Ms F had with our adjudicator. I understand that neither of her other then existing accounts would have allowed any significant transfers as they were young people's accounts. Ms F clearly told Metro Bank she was working and was given a full account which allowed these significant transfers. She said that all she wanted was the free lollipops given by Metro Bank as an incentive to open the account which I find difficult to accept as credible. I place no significant weight on what she says about how long it took her to walk to the branch, noting that it seemed to be relatively close to the property where her family lived and which she'd given as her address on the account application.

I understand Ms F's point that there were large sums involved here. And while I make no assumptions relating to her age I agree with her that this was an organised fraud and as she says likely was co-ordinated by someone else. That doesn't rule out her involvement in facilitating this and that's what I need to decide on.

She says she was pressured into allowing her boyfriend to use her account which she didn't want to do. But she also accepts that she left the account passwords and at times her phone with him and which she says allowed him to do so. She was reasonably required to keep that information safe especially if she realised what his intentions were.

I accept that as over five years have now passed her memory of events may not be clear. But I think that the timing of the payments is important in assessing her explanation. The first payment of this fraudulent money out of her Metro Bank account was at 10:22 on 5 December 2017. The payments to her own other account were made at 11:09 and 11:13 and then further payments to other third parties were made. Most of the money had gone by 12:07. But notably her card and PIN were used for a cash withdrawal at 12:59 and also at a convenience store for a payment of £10.73 at around that time. The point is that the payments to her account came during the other payments. There was no delay. And this is sharply counter to the testimony she's provided. She also hasn't co-operated in establishing where the significant amount of money paid to her other account went. She said that the card on this account was with her. It is unclear why it would be necessary for this transfer to

take place given the other money had quickly gone without issue to other payees.

Ms F has said that her relationship was of an abusive nature. And I think that this is something the police would investigate. She says she was warned by police about potential reprisals and so must have explained things. But again, there is nothing to show that and what she says.

So, while her testimony is evidence it isn't supported. Having balanced all these factors, I think it most likely she agreed to allow her account to be used to receive this money. I don't consider she reasonably thought that funds of this size were legitimate. And the money was moved on in part to an account she had control of and hasn't been explained. She wasn't entitled to that money. I am satisfied that she was most likely complicit in what happened.

Metro Bank says that it applied the CIFAS marker because Ms F received fraudulent funds into her account. So, I've looked at whether Metro Bank was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that it needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Ms F's account of events and the evidence she has provided; I'm satisfied that Metro Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Ms F received fraudulent funds into her account and didn't report this to Metro Bank at the time.
- She was in control of who had the benefit of this money.
- Metro Bank had grounds to believe that Ms F had used fraudulently obtained funds based on the evidence it had.

I appreciate she will be very disappointed by my decision. I don't have a reasonable basis to require Metro Bank to take any further action.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 16 September 2022.

Michael Crewe  
**Ombudsman**