

The complaint

Mr B is unhappy that Metro Bank PLC applied a fraud marker against his name.

What happened

As both parties are familiar with the circumstances of this complaint, I've summarised them briefly below.

In September 2020, Mr B received two payments into his account totalling £755. After these payments were credited to Mr B's account, Metro received a notification from the sending bank informing it that its customer had reported them as being made as a result of fraud.

Metro carried out an investigation and decided to close Mr B's account and load a fraud marker against his name on the Cifas database.

Mr B later realised the marker had been placed after it was impacting his ability to obtain employment. So, he made a complaint to Metro and informed it that he'd received the funds innocently from a friend as a favour.

Metro looked into Mr B's complaint but found that it hadn't made an error in loading the marker. Mr B, unhappy with this, referred his complaint to our service for an independent review.

An Adjudicator considered the evidence provided by both parties but concluded that Metro hadn't made an error. Broadly, the Adjudicator felt that Metro had adhered to the standards set out by Cifas when loading the marker.

Mr B disagreed with the Adjudicator's assessment as he maintained that he'd received the funds as a favour for a friend. So, the matter has now been passed to me for a final decision.

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.

One of the relevant considerations here is set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards regarding this complaint are:

1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
2. That the evidence must be clear, relevant and rigorous such that the member [Metro] could confidently report the conduct of the subject [Mr B] to the police.

My interpretation of these standards is that a member cannot simply load a marker against an individual based on mere suspicion. It must be able to meet a higher bar; in

that a customer was likely a witting participant in the alleged conduct. This has been reinforced by Cifas' Money Mule Guidance, which it released to its members in March 2020.

Having considered the evidence carefully, I'm satisfied Metro has been able to demonstrate it's met the first of the two standards I've listed above. It's been able to show that it received a report from a third-party bank setting out that the transactions were reported as fraud by the account holder. This clearly meets the bar that there are reasonable grounds to believe that a fraud or financial crime has been committed. So, I've gone on to consider if Metro has been able to meet the second of the above two standards.

Mr B has consistently made representations that he had innocently received the funds on behalf of a friend that wanted to purchase a vehicle: but I agree with Metro that this isn't persuasive.

While I can appreciate Mr B no longer has a vast proportion of the evidence to support his testimony due to the passage of time, there does appear to be inconsistencies within the evidence available to support his submissions.

Firstly, there are valid questions around why a third-party would transfer funds to Mr B for the payment of a vehicle. Mr B has said that the third-party done this as they had lost their bank card and there had been fraud on their account. Yet, the third-party was able to access their bank account and process payments to Mr B which didn't require the use of a bank card. If the third-party was able to transfer funds to Mr B, then it's reasonable to deduce that they were able to transfer the funds directly to the party they were purchasing the vehicle from.

Furthermore, I've considered the activity on Mr B's account once the funds were transferred to it. After the payment of £750 was made to Mr B's account, he made three transfers out of the account on the same day. These three payments totalled £550 and were to three separate payees with differing references: such as "girlfriend" and "trainers". I'm not persuaded that this is consistent with a person intent on sending money onward for a friend for the purchase of a vehicle. I also question why Mr B wouldn't have sent onward the entire £755 he'd received.

Mr B has argued that his possession of the bank statements of the sending account is sufficient to prove his relationship with the third-party, but I don't agree. I can't be sure how Mr B has obtained these statements and the issue still remains as to why the sending account holder would have reported the matter as fraud had the payments been paid to him as a favour as Mr B has claimed.

I've also considered the messages Mr B has provided from a social media page in the same name as the person who had sent the funds to him. There is no indication in these messages that Mr B and the individual were party to any agreement. And the fact that he was able to message the person contradicts Mr B's testimony that he was blocked by them.

Overall, for the reasons I've set out above, I'm persuaded that Metro has met the standards set out by Cifas for loading a marker. I'd like to make it clear that my findings aren't intended as an accusation that Mr B was involved in the fraud alleged. Only that Metro has demonstrated sufficient evidence that it loaded the marker in line with the guidance set out by Cifas.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 March 2023.

Stephen Westlake
Ombudsman