

## **The complaint**

Mr Y complains Metro Bank PLC registered a fraud marker at Cifas, the national fraud database and closed his account. He doesn't think it's done so fairly.

## **What happened**

A summary of what happened is below.

Mr Y held an account with Metro. On 11 February 2022 it was credited with £7,215 from a third party through a bank transfer. The funds were then immediately removed through a series of payments to a trading platform using Mr Y's online banking credentials. The payment into the account was identified as fraudulent because the bank from which the funds had come, notified Metro its customer had been the victim of a fraud and scam.

Metro blocked the account and after a review, it issued a notice to close the account within 7 days and loaded a misuse of facility marker at Cifas.

Mr Y contacted Metro in December 2023. He complained after finding out about the marker when he had trouble opening a bank account. He said he'd not done anything to cause this and had been the victim himself. Metro said it had recorded the marker in line with its internal policies and regulatory obligations and declined to remove it. It also deemed the account closure correct.

Mr Y didn't think this was fair. He referred his complaint to us. In doing so, he told our investigator what had happened:

- He'd got talking to a fellow student at university, who was wearing flashy, designer clothes and showed him a wad of cash - he told him that he made money in a legal way.
- He needed financial relief at the time, so this person gave him the number of an acquaintance (F) who could help him.
- He'd given F his login details for his Metro account, and he also set up an account with a trading website and shared those login details with F as well.
- F said they'd make deposits into the account.
- He may have invested £20.
- F moved the funds out.
- He expected to receive a pay-out afterwards in cash of around £5,000 but he got a letter from Metro in the interim, when he realised, he'd been taken advantage of.

One of our investigators reviewed matters. She acknowledged what Mr Y had said but didn't think Metro had treated him unfairly given the evidence it had. She thought Mr Y would have been aware the payment wasn't legitimate because he was allowing money to move through his account, as opposed to the circumstances suggesting he genuinely thought this was an investment opportunity and just that. Considering this, she also concluded Metro hadn't closed the bank account unfairly.

Mr Y didn't accept the outcome and provided screen shots of conversations with F on WhatsApp that he'd managed to retrieve. He said:

- He hadn't appreciated the consequences for him personally or understood the true nature of the payment that came in.
- He was naïve and taken in because he was financially vulnerable at the time.
- The marker was having a profound effect on his ability to open an account and he was desperate to get the matter resolved.

Our investigator didn't change her mind, so the case has been escalated to me as the second and final stage in our process. Metro also saw the screen shots and maintained its actions were reasonable.

### **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'm sorry to disappoint Mr Y but I'm not upholding his complaint.

The marker that Metro has filed is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, it's not required to prove beyond reasonable doubt that Mr Y is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance says, 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.

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Mr Y's account, whether they are retained or pass through the account.

Secondly, the bank will need to have strong evidence to show that Mr Y was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include allowing someone else to use their account to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity. To meet the standard of proof required to register a fraud marker; the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account to understand their level of knowledge and intention.

So, I need to decide whether I think Metro has enough evidence to show fraudulent funds entered Mr Y's account and he was complicit. And I'm satisfied it has. I'll explain why:

- I've seen evidence from Metro that it received a report from a different third-party bank saying that funds which entered Mr Y's account was as a result of a fraud. He doesn't dispute this.
- I've considered what Mr Y has said about why he got in touch with F and the additional information he's now provided. We've shared this with Metro, and it hasn't changed its position. Looking at the same information, I accept Mr Y needed money at the time, but the available evidence also demonstrates he knew what he was doing in sharing his log in details of two accounts and allowing his account to be used wasn't legitimate. I say this because, I would have expected him to question why he'd be getting such a generous return for a token contribution and why his account was needed as a go

between. Crucially though, I can see Mr Y said to F, “...*as long as nothing comes back to me*”. This is highly suggestive he knew that using his account this way, was not only wrong but could have serious implications. I’ve read all the messages Mr Y has provided and whilst Mr Y did challenge F; this was after the fraudulent activity had taken place and he’d participated in it.

- Having weighed everything, I appreciate Mr Y may not have fully appreciated that the activity and his involvement in this could result in a marker at Cifas, and his account being closed. But ultimately, the marker that’s been loaded relates to a misuse of an account facility which is exactly what’s happened here. Looking at the evidence the bank has, I think it had enough to justify recording it. It follows that I’m not going to require Metro do anything to resolve this complaint.
- For completeness, I have also found the bank didn’t treat Mr Y unfairly when it closed his account immediately, given the account terms and conditions and looking at the circumstances that applied in his case.

### **My final decision**

My final decision is that I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr Y to accept or reject my decision before 31 December 2024.

Sarita Taylor  
**Ombudsman**