

complaint

Mr V complains that Metro Bank plc has applied a CIFAS marker against his name. CIFAS is the UK's fraud prevention agency.

background

I set out the background to Mr V's complaint in a provisional decision which I issued in December 2019. That background and my provisional findings are repeated below:

Mr V says that in December 2015 a school friend asked to borrow some money as he (the friend) didn't have his bank card with him. Mr V says he agreed and gave the friend his card and PIN. The friend returned the card about three hours later. The following day Mr V tried to use his card at a cash machine, but it was retained. When he contacted Metro Bank, he was told that his account had been closed. (In fact, Mr V's account statements show that these events happened in November, not December, 2015, but the exact timing isn't significant.) Nearly £200 had been paid into the account and then withdrawn at a cash machine or spent; the credit had been fraudulent.

Mr V later found out that Metro Bank had also placed a CIFAS marker against his name. The marker is categorised as "misuse of facility" and has prevented Mr V from opening another account or obtaining other financial services. Metro Bank says it told Mr V that it had closed his account, but it was nearly three years before he made any further contact.

Mr V referred his complaint to this service and one of our investigators considered it. The investigator didn't think Metro Bank had treated Mr V fairly and recommended that the CIFAS marker be removed. He didn't think the bank had done enough to investigate what had happened before concluding that Mr V was involved in dishonest activity.

Mr V accepted the investigator's view, but Metro Bank didn't and asked that an ombudsman review the case.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I have however reached a different conclusion from that reached by the investigator – at least on the basis of the information I currently have before me.

The investigator broadly accepted what Mr V said about what happened in late 2015 – that is, that he'd let a friend use his card to borrow some cash. I don't believe that's very likely though, and make the following observations:

- *Mr V wasn't in a position to lend his friend any money. The balance on his account at the time was 62p.*
- *Had Mr V wanted to lend his friend some money, the more obvious way to do that would have been to withdraw it himself and given his friend cash (if there had been money in the account).*
- *Even if Mr V had let his friend use his card, there would have been no reason to let him keep possession of it for several hours.*

Mr V said too that he didn't know anything about the wrongful credit that was paid into his account and then quickly removed. I accept that he may not have known that his account would be used to receive stolen funds, but he must have known very soon afterwards that his friend hadn't simply borrowed money from him, not least because there was none in his account. He didn't raise that with the bank, however, until nearly three years later, when the effects on him of the CIFAS marker became apparent.

CIFAS principles say that members (such as Metro Bank) should only record information of the type recorded against Mr V's name if there are reasonable grounds to believe that a financial crime has been committed and that the evidence is such that the matter could be reported to the police. Those principles post-date the events here, but they aren't irrelevant. In my view, there was sufficient evidence here to report the matter to the police, although Metro Bank chose not to.

I don't believe that Mr V thought he was simply lending money to his friend from his own account. There were – for the reasons I've explained – clear indications that Mr V had allowed his friend wider access to and use of his account. It was, in my view, quite likely that the account would be used for dishonest purposes – as turned out to be the case. It may be that Mr V didn't know exactly how the account would be used, but I believe he must have known that he shouldn't allow anyone else access to it in the way he did.

In the circumstances, I don't believe Metro Bank treated Mr V unfairly.

I invited both parties (but in particular Mr V) to let me have any further arguments they wanted me to consider before I issued a final decision.

Mr V responded to say that he was young and hadn't realised that something like this could happen. He accepted that he had given his card to his friend, but didn't think he'd done anything wrong. He also explained that Metro Bank had told him someone had opened other accounts in his name, and assumed that must have been his friend as well. Because of the CIFAS marker, he's been unable to open a new bank account.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I haven't however changed my view from that set out in my provisional decision. As I said then, I appreciate that Mr V may not have known exactly what his friend was planning to do with his card and PIN, or what the consequences might be. But I think he must have known that he shouldn't give his card and PIN to anyone else, and I think he might have suspected that his friend would use them for dishonest purposes. In my view, that's sufficient for Metro Bank to act in the way it did.

my final decision

My final decision is that I don't require Metro Bank plc to remove the CIFAS marker to take any other steps to resolve Mr V's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 6 February 2020.

Michael Ingram
ombudsman