

Complaint

Mr A complains that Metro Bank plc closed his account and recorded a CIFAS marker against his name. CIFAS is one of the UK's fraud alert services.

Background

Mr A opened an account with Metro Bank in April 2018. He says he lost control of the account soon after and that none of the transactions on the account were carried out by him. He says his banking details had been stolen in February 2018 and this included the details he was going to use for online banking with Metro Bank when he opened an account. He says he didn't report any of this to Metro Bank because he was receiving threats not to tell anyone.

Metro Bank received a report that a number of credits to Mr A's account were fraudulent. In each case the money had been withdrawn from ATMs on the same day as receipt. Metro Bank investigated this and the other transactions on the account. It says Mr A wasn't able to provide an explanation for what had happened so it decided to close his account. It noted Mr A had a CIFAS marker recorded by another bank. It decided to record a CIFAS marker too.

Our investigator didn't recommend that the complaint should be upheld. He concluded that Mr A had either carried out the withdrawals of the fraudulent money, or had authorised someone else to. He also thought Metro Bank had done enough to show the CIFAS marker had been recorded correctly.

Mr A didn't agree saying, in summary, that:

- In February, he'd decided what information he was going to give Metro Bank to open the account and use its online banking. This information was stolen when he left his bag unattended.
- He received the debit card and PIN and doesn't know how someone obtained them. He thinks someone must have seen him entering his PIN and that he then went out to a crowded place where he either dropped the card or was pickpocketed.
- Mr A explained how this situation has impacted on him and how the stress has affected his mental health.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr A's testimony

Mr A's testimony has not been consistent and this sheds some doubt on what he's told us. He says he didn't tell the bank that he'd lost his card, his PIN had been compromised, his online banking details had been stolen and that he'd lost control of his account because he was being threatened. But, in relation to his complaint against another bank, he'd told us he received four or five threats over a period of four weeks starting in the second week of February. He hasn't been able to provide evidence of the messages he received and, by the time he opened his account with Metro Bank, the threats had stopped.

So I don't think Mr A failed to tell the bank that he'd lost control of his account because he was being threatened.

Were the disputed transactions authorised by Mr A?

There were a number of transactions on the account from the time it was opened in April 2018 to the time Metro Bank closed it in July 2018. These largely consisted of inward bank transfers from other accounts, followed in quick succession by cash withdrawals.

I've looked at what happened when the four credits which have been reported as fraudulent were received. In each case the money was withdrawn on the same day by ATM cash withdrawals. Metro Bank cannot provide a record of the card and PIN used for these transactions. But an ATM withdrawal would only have been possible using a PIN and I think it's most likely that Mr A's genuine card was used.

Mr A says he received the card and PIN after the account was opened. He hasn't been able to tell us how a third party obtained these details. He's given a possible explanation, but I don't find this very likely. He says someone must have seen him entering his PIN – although he's told us he didn't carry out any of the transactions on the account. Even if he was entering his PIN to activate the card or to check the account balance, it seems unlikely that a third party "shoulder surfed" him and then followed him to a crowded place to pickpocket him or to hope that he dropped the card. I say this because – according to Mr A's testimony - this must have been the same individual who, two months before, had stolen the details he intended to use for online banking.

Mr A has not been able to give a consistent account of how his card, PIN and online banking details came into the possession of a third party. And I don't find what he says to be plausible. For that reason, I think it's most likely that Mr A either carried out the transactions himself, or authorised someone to do so.

The CIFAS marker

Four credits to Mr A's account were reported as fraudulent– the money had been debited from a third party's account without their authority or consent. But before placing the CIFAS marker against Mr A's name, Metro Bank needed to have a reasonable belief that criminal charges could be brought against Mr A as a result of the activity. A suspicion or concern isn't enough. So I need to decide if there's enough evidence to show that Mr A knew more about this than he's told us.

I've already concluded that Mr A's account hadn't been taken over and that he authorised the transactions on the account. So I think it most likely that he also knew about the fraudulent credits.

As noted by our investigator, CIFAS's standards for recording a marker are very high. But I think there is enough information here for a marker to be placed against Mr A. A financial crime was committed – money was paid into his account from a third party account without their authority. The money was withdrawn shortly afterwards using Mr A's card and PIN. There's no evidence that this information had been compromised.

Taking all of this together, this all points to Mr A knowing more about the transactions than he's told us. And I think Metro Bank does have enough evidence to report this matter to the police.

In reaching this decision I have taken into account the impact that the marker has had on Mr A, particularly in view of his young age. But this doesn't change my conclusion.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 March 2020.

Elizabeth Dawes
ombudsman