

complaint

Miss F is unhappy that Metro Bank Plc (Metro) ended its banking relationship with her by closing her Metro accounts and registering a Credit Industry Fraud Avoidance System (CIFAS) marker against her.

Miss F has told us the impact of this has been significant for her in terms of being able to get a new bank account. Miss F wants Metro to remove the marker.

background

On 11 May 2018 £4,700 was paid into Miss F's current account at 1.28pm. Within hours of the monies arriving in Miss F's account two counter withdrawals for £2,300 and £1,800 were made at separate Metro branches, at 2.15pm and 2.50pm respectively; £600 was transferred to Miss F's current account with Metro ending -405, from which £300 was transferred to an individual third party with the remainder removed as a cash withdrawal of £300 soon after.

On 18 May 2018 Metro received notification from another bank that the £4,700 deposited in Miss F's current account were fraudulent funds.

Miss F has confirmed that from 18 May 2018 she was unable to access her banking either through use of her card or online. And on calling Metro to find out what was wrong was told she would hear from them in due course.

On 22 May 2018 Metro issued Miss F with a 'Notice to Closure Letter'. This letter gave Miss F seven days' notice from the date of the letter that, on 29 May 2018, Miss F's accounts with Metro would be closed and their contract with Miss F would come to an end, as per their terms.

Metro also wrote to Miss F on 23 May 2018 in response to the complaint she raised. This letter explained to Miss F that Metro's relationship with Miss F had been terminated due to notification from another bank that fraudulent funds of £4,700 were paid into Miss F's account.

Our adjudicator asked Miss F to provide us with more detail around the transaction in question. And Miss F told us the money was from family abroad to help with the imminent arrival of her baby – as she was seven months pregnant at the time. Miss F said a family dispute had resulted in the relation who sent the money reporting the funds as fraudulent. During the investigation the adjudicator received evidence which contradicted Miss F's version of events and so overall, they said Metro had acted fairly in the circumstances by closing Miss F's account and registering the CIFAS marker.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've decided not to uphold the complaint, for broadly the same reasons as the adjudicator.

I understand from Miss F's submissions she's said this has been a difficult time for her, and I'm very sorry to read of all that she's been through, but after reviewing everything I think Metro has acted fairly in the circumstances.

Metro provided us with a copy of the letter they sent to Miss F on 22 May 2018 explaining they would be closing Miss F's various accounts in seven days. The letter said that after a review and careful consideration, Metro felt unable to continue as Miss F's bankers and gave Miss F seven days to make alternative banking arrangements as well as giving her the opportunity to collect any items still held in any safety deposit box.

I understand that receiving notice of this kind would've had a real impact on Miss F - as she has described to us. But I'm afraid Metro has acted within the terms and conditions of the accounts. These entitled them to close the accounts and they were allowed to do this immediately or they could do so by giving some notice – which in this case they did to give Miss F a chance to make other arrangements.

There was also no requirement for Metro to let Miss F know why they were closing her accounts, but Metro also sent us a copy of their letter to Miss F dated 23 May 2018 which explained Miss F's accounts had come to their attention after being notified by another bank that fraudulent funds were paid into Miss F's account. This letter also suggested Miss F speak to the remitter of the funds to find out why the claim was made and invited Miss F to provide an explanation and any evidence about the transaction in question – which it said would potentially help with any wider police investigation. I've not been made aware that Miss F provided any further information to Metro.

So I can't say Metro has done anything wrong by taking the decision to close Miss F's accounts.

Miss F has told us about the difficulties she's had in arranging new banking facilities due to the CIFAS marker Metro placed against her. Metro placed the marker because Miss F had received fraudulent funds into her account and retained a wrongful credit. So I've looked at whether it was fair for Metro to apply the marker based on the evidence it had. And what the rules say about applying such markers.

The marker that's been applied is one that records that there's been a misuse of facility, e.g. use of the account for receiving fraudulent funds. In order for Metro to be able to record this, it isn't necessary for the bank to establish, say, beyond reasonable doubt, that Miss F was wittingly involved in fraudulent funds being received. Nor have I undertaken a fraud investigation to establish any such evidence.

Metro is, though – in order to file the marker – expected to be able to demonstrate that there are reasonable grounds for it to believe that a fraud or financial crime has been committed or attempted; and it has to demonstrate that with evidence that must be clear, relevant and rigorous such that it could confidently report the conduct of Miss F to the police.

The relevant judgement for me to make therefore is one about what Metro was entitled to think about what had most likely gone on, such that it would be able to escalate any concerns, based on the evidence available to it; rather than specifically what I conclude was most likely to have been Miss F's role in the receipt of the fraudulent funds.

After considering Miss F's version of events and the evidence Metro has provided, together with the investigation carried out by our adjudicator, while I think Metro could have carried

out more investigation at the time of applying the marker, taking everything into account I do think it was reasonable for them to apply it. In reaching this conclusion I've taken into account:

- Metro has provided their own submissions that the payment into Miss F's account on 11 May 2018 was fraudulent.
- Miss F's version of what happened has been that she always expected these funds which were coming from her family, but the evidence available to me, especially that provided by Metro, is at odds with Miss F's description of where the funds came from.
- Miss F had an opportunity to let Metro know she'd received fraudulent funds. But she has said she expected these funds and does not dispute that she benefited from the funds in question. Miss F told us how she considers the claim of the funds she received being fraudulently sent came about. But while she says that the funds were genuinely sent to her and what she used the funds for, she's only been able to provide receipts for a very small proportion of the sum in question that were dated some time after the funds were taken from her accounts.

Taking everything into account, I don't consider that Miss F has sufficiently persuaded me that the fraudulent funds were received into her account on the basis in which she describes. I therefore find that Metro have met the burden of proof required by CIFAS to add the marker against Miss F's name. I think it's fair that Metro reported Miss F to CIFAS and I'm not going to ask Metro to remove the marker.

my final decision

For the reasons above, I do not uphold Miss F's complaint. In the circumstances I think Metro has fairly applied their terms when deciding to close Miss F's account and register the CIFAS marker.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 21 March 2020.

Kristina Mathews
ombudsman