

## **complaint**

Miss E has complained Metro Bank PLC closed her account without notice and placed a fraud-related marker on her record.

## **background**

Miss E opened a current account with Metro in 2017. Around the time of her A level results, Miss E was staying with friends and enjoying a release from study for the time being.

On 19 August 2017 a new account was opened in Miss E's name and £2,900 was paid into that account. That was then transferred into her current account and withdrawn using her card and PIN. Metro was told by a third party that this £2,900 was a fraudulent payment and decided to close Miss E's accounts. They also lodged a fraud-related marker against Miss E with the industry fraud database, CIFAS.

Miss E told Metro she hadn't opened the new account or made any transfer or subsequent payments. Metro felt there must have been quite a bit of compromise of details – her card, PIN, customer and security numbers – so at a minimum she'd not looked after her account details as required by their terms and conditions. Miss E brought her complaint to the ombudsman service in 2019 when she realised the impact a CIFAS marker was having on her life.

After reviewing all the evidence – including phone calls between Metro and Miss E – our investigator didn't think that Metro had met the tests for lodging a CIFAS marker. She asked Metro to remove this.

Metro felt they had enough reasons to lodge the marker against Miss E. They've asked an ombudsman to consider her complaint.

## **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 reached the same conclusion as our investigator. I'll explain why.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The bar for recording a CIFAS marker is a high one. The bank must have a good reason to believe it could have suffered a loss and/or it reasonably believes it has grounds to press criminal charges as a result of the activity on the account. This should be more than just a suspicion or concern.

It follows that the bank must have carried out sufficient checks to satisfy this requirement. Given the impact a CIFAS marker can have on someone, the bank is expected to keep a record of these checks so it can evidence the decision it reached to record the CIFAS marker.

Firstly I can see the timeline of events, each party's testimony and how the transactions were made were covered in our investigator's view of 29 August 2019. I don't intend to

repeat everything that was said there. I will, of course, refer to those aspects which form the basis of my decision. I can reassure Miss E and Metro I've read the file thoroughly and reviewed all the evidence.

The following summarises what I've considered:

- During this period in the summer of 2017, Miss E was living with friends, partying and enjoying a period without exams. It's clear from what she's told us – and testimony from a friend – that this was quite a chaotic time with people coming and going. Miss E mislaid her purse during this period.
- I suspect this involved a lot of people who weren't invited coming to the house she was staying. We've been told of jewellery and other belongings also going missing.
- Miss E was young and had only just opened her Metro account but she wasn't planning on using it. In fact she still had all her security information with her whilst staying with friends. She felt she needed this as she'd not used the account much.
- Certainly what happened here – a recently-opened account and a young account-holder – could fit the profile of suspected fraudulent behaviour.
- What's not clear however is that this was committed by Miss E herself.
- The payments out – including cash machine withdrawals and other card transactions – happen pretty instantaneously after the credit of £2,900 was received.
- Miss E has explained to us why she didn't tell her parents what had happened. She wasn't initially concerned about her account being closed but was concerned when she found out about the CIFAS marker and how it would impact her. She was concerned what her parent might say and think.

The test under the PSRs isn't whether there was an opportunity for the card and PIN and security details to be compromised; rather whether the payment services user (Miss E in this case) authorised these transactions. It's not my role to decide how someone else could have got hold of Miss E's details, made these transactions or to investigate who that potential fraudster may be.

However I do need to believe there are scenarios which explain how someone could have used Miss E's card and PIN and security details without her consent. I've thought about the different scenarios that could have happened here. Overall I can see there was a clear point of compromise.

I have also carefully considered Metro's argument why Miss E's account was used in this way. However one key piece of evidence is Miss E's surprise there'd been another account opened in her name.

Overall I don't believe Miss E made or authorised the transactions from her account or knew about these. Nor do I believe Metro has met the relevant tests. Therefore they need to remove the CIFAS marker lodged against Miss E's record.

I have considered this complaint carefully. There is supporting evidence for Metro's assertion; likewise there is evidence in support of Miss E. I have to decide this case on the balance of probabilities, and considering the case overall and on balance I have decided the facts support the outcome as outlined above.

**my final decision**

For the reasons I've given, my final decision is to instruct Metro Bank PLC to remove the CIFAS marker lodged against Miss E.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 9 July 2020.

Sandra Quinn  
**ombudsman**