The complaint

Mr A complains that Monzo Bank Ltd added a marker about him at CIFAS, the national fraud database.

What happened

Mr A says he hasn't been involved in any fraudulent activity and that the marker hasn't been added fairly.

Monzo Bank said it received a report that a payment made into Mr A's account on 20 February 2021 had been obtained fraudulently. So, it closed his account and added the marker. It reviewed its decision when Mr A complained but said that it hadn't made a mistake.

Our investigator didn't recommend that the complaint be upheld. She said that the payment involved of £250 had been withdrawn the same day. And when Mr A had contacted Monzo Bank on 18 March 2021 he said of the marker that *"my bank told me it was because of 250 pounds being sent to my account. This happened after my friend asked if he could send money to my account to buy something. Me not knowing that it was actually for a scam."* But Mr A had told this service that the money was sent to him by a person who was buying shoes from him. And that his friend posted the item when the money had been received. Although he had sent a screenshot of what he said was an online conversation with the buyer confirming he had received the shoes this wasn't dated or verifiable. And the certificate of posting he'd provided didn't confirm delivery.

Mr A didn't agree. He said he wanted to pursue this in any way that he could. He is due to go to university and had been wrongly accused. And this marker was having a serious impact.

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 won't be able to say *exactly* what happened and I'm thinking about what is *most likely*. I need to consider whether the report to CIFAS was made fairly. On this point, Monzo Bank needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

What this means in practice is that it must first be able to show that fraudulent funds have entered the consumer's account, whether they are retained or pass through the account. Secondly, it will need to have strong evidence to show that the consumer 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 in order to receive an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

I consider relevant factors in deciding here whether Mr A was deliberately complicit in what happened include whether he knew or ought to have known that the money wasn't legitimate, whether he may have benefitted from the money by keeping part and whether he has provided generic or inconsistent explanations.

I note that Mr A has said to our investigator that he did believe that this was a payment from a friend first. But then that after receiving a subject access request from CIFAS showing the time and date of the payment he had seen it was from a buyer for shoes he'd sold. He said that he contacted Monzo Bank about the mix up but was told it couldn't open the case again. The item wasn't sent with tracking as this was the way the buyer requested, but he says that the certificate of posting shows it was sent.

I can see that the email that our investigator referred to from Mr A to Monzo Bank dated 18 March 2021 came *after* Mr A said he had seen a subject access request from CIFAS. And looking at Mr A's bank statement there were no other payments for a similar amount. In addition, his version of events is that he had sold the item to a buyer for that amount and had received the money and sent it on from his account straightaway. So, there is an inconsistency here. And that's especially because Mr A says he had the online messages with the buyer and knew about the dispute.

Mr A says that he is the victim here. Because he sent the shoes the next day on 21 February 2021 and the buyer falsely claimed he didn't receive them. The certificate of posting he's provided doesn't confirm what was sent and this was using a post office some distance from his home address. The messages he provides aren't dated and weren't originally provided. The information Monzo Bank received supports its conclusion that the person sending the money was the victim of a purchase scam.

There are discrepancies between what the person sending the money and Mr A say. On any view Mr A can't show the item was delivered to the buyer's address. And so that he is fairly due this money. It may be that he allowed his account to be used by his friend as he first said. Or that he expected that friend to send the item. I don't find his testimony to be reliable given the inconsistencies. And I'm satisfied that this money was obtained fraudulently, and that Mr A was deliberately complicit in what happened.

Monzo Bank says that it applied the CIFAS marker because Mr A received fraudulent funds into his account. So, I've looked at whether Monzo Bank was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Monzo Bank needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mr A's account of events and the evidence he has provided, I'm satisfied that Monzo Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr A received fraudulent funds into his account.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Monzo Bank had grounds to believe that Mr A had used fraudulently obtained funds based on the evidence it had.

I appreciate what Mr A says about the impact of the marker for him but I’m afraid I don’t have a reasonable basis to require Monzo Bank to do anything further.

My final decision

My 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 August 2022.

Michael Crewe
Ombudsman