

## The complaint

Mr S complains that Monzo Bank Ltd has registered a marker at CIFAS the national fraud database.

## What happened

Mr S says he was asked by someone from college to open an account in May 2021. And that he allowed that account to be used by this person and would benefit from investment in crypto currency. But he says he was tricked, and the person used the account to receive fraudulently obtained funds. He found out later that year that the marker had been added when his account at a different financial business was closed. He explains the impact of the marker including the stress caused.

Monzo Bank said it hadn't made a mistake. It had received a notification that a payment of £312 into Mr S' account was fraudulently obtained. So, it had closed his account and registered the marker.

Our adjudicator recommended that the complaint be upheld, the marker removed, and Mr S paid £200 in compensation. She said that Monzo Bank has to make checks, and this should include allowing Mr S to give his side of events. To add a marker the guidance from CIFAS is that:

*“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]  
The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

Monzo Bank hadn't spoken to Mr S at the time. Mr S said it hadn't wanted to take into account his explanation of what happened when he complained. Mr S said he gave control of his account to the other person. And his only role was in transferring £20 to a crypto currency account. He had provided screen shots to support his case. She found his explanation to be plausible and persuasive. Although his account was used for fraudulent purposes she thought that he was an unwitting participant and wasn't complicit.

Monzo Bank didn't agree. It said that it wasn't part of its process to reach out to a customer in these circumstances. It had undertaken a thorough investigation and had information about the payments and the device used. There had been small 'tester' payments to the account first from money in an external account and then transferred to a crypto currency provider. And this '*suggested that the customer was complicit in the fraud*'.

## 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 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 a bank 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, the bank 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.

To meet the standard of proof required to register a CIFAS marker, the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account in order to understand their level of knowledge and intention.

There are some points here that are agreed. And these are that Mr S opened the account with Monzo Bank. He allowed a third-party free access to the account. Fraudulent money was paid into the account on 13 July 2021 and was moved on within a minute. There was more than one device with access to the account.

I've listened carefully to the explanation he gave to our adjudicator during calls with this service. He says that the person involved was in his class in college and contacted him on social media after college had finished. He says those initial messages aren't stored by the app involved. He said none of his personal money was to be used and if this worked he could make money. He trusted the person involved. He couldn't say why that person couldn't have his own account. And he just thought this was a way to build a network and help each other out. He opened the account solely for this purpose and for the other person to use.

He was frankly vague about payments into his account at the start. He thought a £2 initial credit was from him to open the account. He was unsure about a further credit of £20 on 27 June 2021 which appeared to come from the same external account. And he then said that the person involved somehow sent the money.

He has provided some screenshots from social media to support his case. I don't have particular reason to doubt these are genuine even though I can't fully verify them as unedited and complete.

There is an online chat about the £20 crypto currency investment on 6 July 2021. Mr S seems to send some account details and a password relating to that investment. And on 13 July 2021 (untimed entry) he is told to *'Click on portfolio. Then click on bitcoin.'* Mr S has given the following explanation that *'Here was the details he asked me for. He then saved the details and then told me where to put the money on a [third-party business name] account and invest in bitcoin.'*

There is a screen shot from the Monzo Bank app taken at 16:26 on 13 July 2021. The credit of £312 came in at 16:18 and was moved out it seems to a different crypto currency account at 16:19. Mr S then seemed to provide his account details at a different financial business on 15 July 2021. He's said to this service about the £312 that this did seem a 'bit random'. But that he was assured by the other person that this was something that didn't work, and he wasn't sure exactly about it.

He's explained to this service that later that year he was contacted by this individual again. He provides what I consider significant evidence about that. And details of a discussion about Mr S providing new account details to the person. He gathered this to support his complaint.

Monzo Bank didn't speak to Mr S at the time which I've have expected it to try to. This may have affected how complete Mr S' evidence now is. But it doesn't automatically mean that the marker was added unfairly. And having seen his evidence now Monzo Bank still is of the same opinion about the complaint.

I need to make an overall assessment in what I think is a finely balanced case. It's not enough for Mr S only to say that the other person involved was the fraudster. He bears a responsibility for the way in which his account was used. Here I'm satisfied on balance that someone else was involved and was giving direction to Mr S. And that Mr S genuinely thought he would make money out of crypto currency and that the initially small investment seemed to reflect that. I also think his efforts to provide more information now as I've set out above is an important factor. And so, I don't conclude either that he was directly involved in this fraud or reasonably thought that this would happen. I think that his expectations about making easy money were naïve.

So, I've carefully considered Mr S' actions and reactions including during the investigation by this service. And my judgement in this specific case is that I don't find he was deliberately complicit in this fraud. I don't conclude on balance that the high bar for the CIFAS marker was reached here.

I agree our adjudicator's suggested resolution for the case is reasonable.

### **My final decision**

My decision is that I uphold this complaint and I require Monzo Bank Ltd to remove the CIFAS marker and pay Mr S £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 September 2022.

Michael Crewe  
**Ombudsman**