

Complaint

Mr A is unhappy that Monzo Bank Ltd (“Monzo”) recorded a fraud prevention marker against him.

Background

In January 2021, Mr A’s account received credits of £345.62, £325.71 and £35. The vast majority of the funds were immediately transferred on to a third-party. Monzo subsequently received a notification from the third-party bank, responsible for sending two of these payments to Mr A’s account, stating that the payee of the funds had reported being a victim of fraud. It subsequently received a similar notification from one of its own customers in relation to the third transaction.

Monzo decided to block Mr A’s account pending a review. As a result of the review, it decided to close the account and also record a fraud prevention marker against Mr A.

Mr A was unhappy with this and complained. Monzo looked at Mr A’s complaint and didn’t uphold it. As Mr A remained dissatisfied he referred the matter to our service. One of our adjudicators looked into Mr A’s concerns. He didn’t think that Monzo had done anything wrong or treated Mr A unfairly and so didn’t recommend the complaint be upheld.

Mr A disagreed and so the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

The marker that Monzo has filed is intended to record that there’s been a ‘misuse of facility’ – relating to using the account to receive fraudulent funds. In order to file such a marker, it isn’t required to prove beyond reasonable doubt that Mr A is guilty of fraud or a financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance says:

- *“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.”*

What this means in practice is that Monzo must first be able to show that fraudulent funds entered Mr A’s account, whether they were retained or merely passed through. Secondly, Monzo also needs to have strong evidence to show that Mr A was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include Mr A allowing someone else to use his 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 complicity.

To meet the standard of proof required to register a fraud 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.

In order to determine Mr A's complaint, I need to decide whether I think Monzo had enough evidence to show fraudulent funds entered Mr A's account and that his actions suggest he was complicit in this. And having considered everything, I find that Monzo did have enough to record a fraud prevention marker here. I'd like to explain why in a little more detail.

There doesn't appear to be any dispute that the funds in question, which entered Mr A's account in January 2021, did so as a result of fraudulent activity. So the only matter which remains in dispute here is whether Mr A was complicit in allowing his account to receive these illegitimate payments.

Mr A has said that he knows nothing about what happened on his account because he lost his card. He said that he didn't report his card lost or realise what was going on his account because he didn't really use it as he only had need for it when he was abroad.

I've thought about what Mr A has said. But I'm afraid that what he's said simply isn't plausible here. Firstly, Mr A has told us that he never really used this account. But his account statements show that he was using it for purchases, transactions and was making credits from another of his account right up to the point the fraudulent activity took place. So I have to question why he didn't report his card lost or challenge why his account was being closed at the time.

Furthermore, even if I were to accept that Mr A did lose his card, for the avoidance of doubt I wish to make it clear that I don't, this wasn't explain how an opportunistic fraudster who simply found it was able to log on to his mobile banking using his credentials. The fact that Mr A's mobile banking credentials were used in this way does suggest that he was involved in what was taking place on his account.

Overall and having considered everything, I'm satisfied that the available evidence is sufficient to conclude that Mr A was not an unwitting participant in fraudulent funds being received into his account and then being transferred onwards. So I don't think that Monzo acted unfairly towards Mr A when recording a fraud marker against him. And I'm therefore not upholding Mr A's complaint.

I appreciate this will be very disappointing for Mr A. But I hope Mr A will understand the reasons for my decision and that he'll at least feel his concerns have been listened to. Furthermore, Mr A might find that he's able to open an account with another bank as long as he applies for a Basic Bank Account, rather than a full Current Account or any such equivalent.

My final decision

For the reasons I've explained, I'm not upholding Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 November 2022.

Jeshen Narayanan
Ombudsman