

The complaint

Mr M complains that when Monzo Bank Ltd closed his account it added a marker at CIFAS, the national fraud database.

What happened

Mr M says that he didn't know that money sent to his account was obtained fraudulently. And that the CIFAS marker was affecting his ability to go to University.

Monzo Bank said it hadn't made a mistake. It said that it had followed the correct process in closing his account and reporting a marker to CIFAS.

Our adjudicator didn't recommend that the complaint be upheld. She said that there was a high bar for adding a marker. Monzo Bank had received notifications from two different financial businesses that money received into the account in January 2021 had been obtained fraudulently. The account had been closed in February 2021.

Mr M had told her that he agreed to allow someone at school who didn't have a bank account to receive the money. And that he'd asked him whether this was fraud and was told it wasn't. Mr M was to receive a share of about £10. And he said that there were two payments of £130 one for a games console and the other for a mobile phone. He took out the money for the person at school in cash. Mr M had provided some social media screen shots, but these didn't confirm any dates and she said aren't reliable. Mr M had also said that he was selling the goods and the problem came when someone said he hadn't supplied the goods. Mr M seemed to have kept more of the money than he'd said too. So, she thought it most likely that Mr M was complicit in receiving fraudulent funds. And given this Monzo Bank had grounds to add the marker and to close Mr M's account.

Mr M didn't agree and wanted his complaint to be reviewed by an ombudsman. He didn't want this issue over £250 to affect his whole future.

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 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.

I've taken into account guidance from CIFAS about cases where someone receives fraudulent payments into their account like this – acting as a so called 'money mule'. And that relevant factors in deciding whether Mr M 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've noted from the information provided by Monzo Bank that in addition to the two payments referred to by our adjudicator a third also for £130 that had been received was reported as fraudulent after the account was closed. I note that the account had only been opened on 31 December 2020 and so a pattern of receiving fraudulently obtained money was quickly established in January 2021.

I can't verify whether the two screen shots of social media online chat Mr M says is between him and the person who asked him to receive the money are genuine. But I note in any event that these only seem to refer to the first payment. And then resume after the account was closed. So, I don't see these could give a complete record.

Mr M has also given two explanations of what was happening. In a complaint form to this service dated 23 June 2022 he refers to the other person being involved. But in an earlier complaint form dated 30 March 2022 he says he was selling goods, and someone had claimed he didn't send them the item - that this was totally unfair and that he had just turned 16. In any event he seemed to know that the item(s) weren't being supplied. And if he'd been supplying them would reasonably have been able to show this. Money was withdrawn from the account. And on his version of events now he says he suspected fraud and hasn't said why he'd accept the assurances of the person about this especially as there was more than one payment.

Having balanced all this information I find that he was complicit in what happened and reasonably knew or ought to have known that this money wasn't obtained legitimately.

Monzo Bank says that it applied the CIFAS marker because Mr M received fraudulent funds into his account. So, I've looked at whether it 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 M's account of events and the evidence he's 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 M received fraudulent funds into his account and didn't report this to Monzo Bank at the time.
- 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 M had used fraudulently obtained funds based on the evidence it had.

Given these findings I also don't think it acted unreasonably when closing his account. I know Mr M will be very disappointed by my conclusions in light of what he's said about the impact of the marker for him. But I don't have a reasonable basis to require Monzo Bank to take any further action.

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 M to accept or reject my decision before 29 December 2022.

Michael Crewe
Ombudsman