

Complaint

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

Background

In February 2022, Mr H’s account received two credits of £100. The funds were immediately withdrawn from a cash machine. Monzo subsequently received a notification from the third-party bank, responsible for sending the payments to Mr H’s account, stating that the payee of the funds had reported being a victim of fraud. Monzo decided to block Mr H’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 H.

Mr H Was unhappy with this and complained. Monzo looked at Mr H’s complaint and didn’t uphold it. As Mr H remained dissatisfied he referred the matter to our service.

One of our adjudicators looked into Mr H’s concerns. She didn’t think that Monzo had done anything wrong or treated Mr H unfairly and so didn’t recommend the complaint be upheld. Mr H 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 H 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 H’s account, whether they were retained or merely passed through. Secondly, Monzo also needs to have strong evidence to show that Mr H was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include Mr H 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 H's complaint, I need to decide whether I think Monzo had enough evidence to show fraudulent funds entered Mr H'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 H's account in February 2022, did so as a result of fraudulent activity. So the only matter which remains in dispute here is whether Mr H was complicit in allowing his account to receive these illegitimate payments.

Mr H has said that he knows nothing about the activity which took place on his account because he lost his phone and his card, with the personal identification number ("PIN"), was in his phone case. Mr H said that he wasn't able to stop his card because he didn't have his phone to access the Monzo app to be able to do this. He said the first he realised anything about the activity was when he received a visit from the police.

I've thought about what Mr H has said. But I'm afraid that what he's said simply isn't plausible for a number of reasons. Firstly, Mr H never mentioned anything about leaving his PIN with the card in his phone case when he first spoke to Monzo about this matter. This is despite being questioned on how might it have been possible for a third-party to have withdrawn the funds at a cash machine.

Secondly, I find it somewhat odd that Mr H would leave a card and PIN, for an account he didn't really appear to be using and he didn't have funds in, in his phone case. This is especially the case as Mr H says he had other accounts, which he presumably, used more regularly and which he doesn't appear to have been carrying the cards for in the same way.

Furthermore, Mr H has been asked to evidence the discussion that he's said he had with the police. But he's not been able to provide any police reports or reference numbers. And this is despite the fact that given the sums involved here, it would be highly unusual for the police to visit someone in this way without the bank concerned having made a report in the first place.

Finally, even if I were to accept that Mr H did lose his card in the way he says he did, for the avoidance of doubt I wish to make it clear that I do not, I would have expected Mr H to have taken steps to have reported the loss. This is especially as he would have lost his phone as well as his card and he would have known that he left his PIN with his card if this is what he did. I'm afraid that there are a number of discrepancies which mean that Mr H's version of events simply isn't credible.

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

I appreciate this will be very disappointing for Mr H. But I hope Mr H will understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 29 December 2022.

Jeshen Narayanan
Ombudsman