

Complaint

Miss A is unhappy that Monzo Bank Ltd (“Monzo”) registered a fraud prevention marker against her.

Background

In January 2021, Miss A’s account received a payment of £600. The funds were immediately transferred on to a third-party. Monzo was subsequently contacted by another of its customers who said that they’d been scammed into transferring funds to Miss A. Monzo reviewed Miss A’s account and as a result of its investigation, it decided to close her account and record a fraud prevention marker.

After learning of the fraud prevention marker, Miss A complained that this was applied unfairly. Monzo looked at Miss A’s complaint and didn’t uphold it. As Miss A remained dissatisfied she referred the matter to our service.

One of our adjudicators looked into Miss A’s concerns. She didn’t think that Monzo had done anything wrong or treated Miss A unfairly and so didn’t recommend the complaint be upheld. Miss 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 Miss 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 Miss A’s account, whether they were retained or merely passed through. Secondly, Monzo also needs to have strong evidence to show that Miss A was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include Miss A allowing someone else to use her 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 Miss A's complaint, I need to decide whether I think Monzo had enough evidence to show fraudulent funds entered Miss A's account and that her actions suggest she 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 Miss 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 Miss A was complicit in allowing her account to receive the illegitimate payment.

Miss A says that she didn't know that the funds were fraudulent. She told our adjudicator that her younger sister was owed £10 by a school friend and she asked whether Miss A could receive the payment into her account for her. Miss A agreed but then saw she was sent £600 rather than £10. Miss A's sister then received a call saying that the £600 had been transferred in error and could it be returned as it belonged to her brother. As a result Miss A sent on the funds as requested.

I've thought about what Miss A has said. But I'm afraid that Miss A's version of events simply isn't plausible. The first thing to say is that Miss A has only provided a screenshot showing the details of the account she was asked to transfer the funds to. There isn't anything in this screenshot to corroborate that the funds were initially sent to her by mistake.

Secondly, Miss A hasn't been able to provide anything to corroborate what's been said. I appreciate that Miss A's sister has contacted us to say that she lost her phone which had all the text messages and screenshots to support what's been said. But I would have expected Miss A to have asked for this when her account was closed.

Most importantly of all, while Miss A is correct in saying the account details of the sender of the funds won't have shown on her transaction data, nonetheless the name of the payee clearly did. And it is immediately obvious that Miss A was being asked to send on to the funds to a completely different person. I would have expected Miss A to have queried this - especially as she says that her sister's friend was concerned that she may have lost her brother's money and that's why she acted as she did.

I'm also concerned that this activity all took place within the space of a few minutes and at night. Which calls into question how there would have been sufficient time for the events to have played out in the way Miss A says they did. Finally, I'm also mindful that Miss A transferred all of the funds in question on to the third party. Given Miss A only received the funds because her sister was owed money in the first place, I can't understand why she wouldn't have kept what her sister was owed if she genuinely believed that the funds had been sent in error.

The implausibility of Miss A's version of events coupled with her inability to provide persuasive supporting evidence to corroborate what she's told us, means that I can't reasonably conclude she was an unwitting participant here. Instead, I think that Monzo was reasonably entitled to conclude that it's more likely than not Miss A was complicit in her account receiving fraudulent funds.

So overall and having considered everything, I'm satisfied that Monzo did have sufficient evidence to show that fraudulent funds entered Miss A's account. And it was also reasonably entitled to conclude that it was more likely than not that Miss A was complicit in this. As this

is the case, I don't think that it was unfair for Monzo to record a fraud prevention marker in the circumstances that it did. And I'm not upholding Miss A's complaint.

I appreciate this will be very disappointing for Miss A. But even taking into account the impact Miss A says the marker is having on her, I can't ignore the fact that the available evidence appears to indicate that it's more likely than not she was complicit in fraudulent activity. So I hope that Miss A will understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 15 March 2023.

Jeshen Narayanan
Ombudsman