

## **The complaint**

Mr O complains that Monzo Bank Ltd added a marker about him to CIFAS, the national fraud database, when it closed his account.

## **What happened**

Mr O says that he found out about the marker when he tried to open an account elsewhere. He says he wasn't involved in any fraudulent activity and thinks his bank card must have been stolen.

Monzo Bank said it hadn't made a mistake. It had received information that a payment made into Mr O's account had been fraudulently obtained. It had blocked his account and told him that it would be closed. Metro Bank said it had grounds to apply the marker.

Our adjudicator didn't recommend that the complaint be upheld. Mr O had opened the account in March 2021 and there had been little activity. Monzo Bank had referred to the address relating to his account being changed on 15 April 2021 and then changed back to the original one on 13 May 2021 with further changes after that. Mr O had told her that he lost his card on the bus and had gone to the bus station to try and find it. He had told Monzo Bank about this and was then informed that the account was frozen due to suspicious activity. A credit of £1,574.39 had been paid onto Mr O's account on 13 May 2021 and was reported as fraudulently obtained. An unknown third party would need to know Mr O's account details to be able to do so, and these weren't provided on the card. So, she thought he was complicit in what happened and that there were grounds to add the CIFAS marker and close his account.

Mr O who has a representative in this complaint didn't agree and wanted it to be reviewed. He said that he was the victim of fraud and didn't know who carried this out. He doesn't know where the funds came from. He felt let down by our response to his complaint. He said that when he knew about the loss of his card he informed Monzo Bank. So, he expected that his account would be put on hold. He has now found an email about the closure of the account but didn't recall seeing this until 2022. He wanted to know why Monzo Bank hadn't restricted or blocked his account to stop this happening. He has reported this matter and he says been unsuccessful in getting further information for the authorities. He wants to know what the other addresses referred to are. Mr O provided details of his recent correspondence with Monzo Bank about a data subject access request and said that he was dissatisfied with this.

## **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.

This service provides informal dispute resolution, and I won't be able to say *exactly* what happened but will be thinking about what is *most likely*. And if Mr O doesn't accept my

decision he remains free to pursue this in court subject to any relevant time limits.

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 the evidence must be clear, relevant and rigorous.

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.

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 O 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'm satisfied that the money credited into Mr O's account was fraudulently obtained. And he doesn't say that he was entitled to this money. This was quickly identified by Monzo Bank and the account blocked and Mr O was informed about this.

Mr O says he lost his bank card. There is no record of him telling Monzo Bank about that at the time or discussing what happened. He says that his account was already blocked when he went online, and he thought that this was the reason. Monzo Bank further told him that his account would be closed, and I can't see he did anything about that at the time taking into account that on his version of events all that had happened was that he'd lost his card.

As our adjudicator has pointed out the account number and sort code wouldn't be included on his card. And he'd only used the card for a few small payments with the last one on 14 April 2021. If a third party was going to take over his account in the way he says must have happened then there'd need to be a way for that person to access the money. There is no evidence that his PIN had been compromised. There'd been no new device registered to access the account other than the one he'd been using. So, I can't see how a third party would have discovered the information necessary to access the money. And I'd expect that to have been done before the credit came in and possibly to have involved a test payment.

I appreciate that his address had been changed and he refers to the different one in his complaint form. I can see why he's suspicious about that, but I can't see how that would and did here have assisted a third party in getting access to his details. I can't see that any statement had been issued before this credit and how an earlier address change would be connected to what he says was the theft of his card about a month later. I don't have any address information other than the ones he's provided in his complaint form, and I don't rely on that information in making my decision. It would be up to the relevant authorities to ask Monzo Bank for any information they wanted. I know Mr O said he is unhappy with a

data subject access request he's made to Monzo Bank, and it's rightly told him he can refer that to the Information Commissioner's Office if he wants to. I can also see that it wrote to this service to say it had provided all the information and also that our adjudicator had asked Mr O if this was the case and hadn't had a response.

I'm afraid I don't consider Mr O has given a plausible version of what happened even if I accept that his card was lost or stolen. I don't rule out him allowing someone else to have access to his account. I note his age at the time but see no evidence he was placed under any duress or tricked into providing his details. So, I find he would be equally responsible for what someone else he'd allowed access to his account did. And I consider it most likely he was complicit in what happened.

Monzo Bank says that it applied the CIFAS marker because Mr O received fraudulent funds into his account. So, I've looked at whether Monzo Bank 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. 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 O's account of events and the evidence he has 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 O received fraudulent funds into his account and didn't report this to Monzo Bank at the time.
- He was in control of who had the benefit of this money.
- Monzo Bank had grounds to believe that Mr O had attempted to use fraudulently obtained funds based on the evidence it had.

In light of this I consider it had grounds to close his account under the terms and conditions and I'm afraid I won't be asking to do anything more. I appreciate how disappointed Mr O will be given what he says about the impact of the marker for him.

## **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 O to accept or reject my decision before 17 August 2023.

Michael Crewe

**Ombudsman**