

The complaint

Miss O complains Monzo Bank Ltd (“Monzo”) closed her account and reported a fraud prevention marker against her.

What happened

On 4 May 2022 Miss O’s account received a payment of £10,000. All the money was immediately transferred to third parties. Monzo’s internal system flagged these transactions and after a review, on the same day, it decided to close her account. It informed her of this and reopened the account for two months notice period to allow her access it. Monzo later received information and that led it to record a fraud prevention marker with CIFAS. After learning of the fraud prevention marker, Miss O complained that this was applied unfairly. Monzo looked at Miss O’s complaint and didn’t uphold it. As Miss O remained dissatisfied, she referred the matter to our service.

One of our adjudicators looked into Miss O’s concerns. He didn’t think that Monzo had done anything wrong or treated Miss O unfairly and so didn’t recommend the complaint be upheld.

Miss O didn’t agree, so the complaint was passed to an ombudsman for a final decision.

What I’ve decided – and why

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I’ve come to the same conclusions reached by the investigator. I’ll explain my reasons.

There are two aspects to the complaint here, the initial decision to close the account and the later decision to record a fraud marker.

closure of the account

The terms and conditions on the account permitted Monzo to close an account with two months notice. And without notice where it believes a customer has *“broken the law or attempted to break the law or the terms of the agreement”*.

On 4 May 2022 Monzo decided to close the account and gave Miss O the required two months notice.

The records Monzo have sent us show it spoke to Miss O on the day to get more information on one of the payments she attempted. And, from the email Miss O sent on 28 September 2022, I’m satisfied she’d received that closure notice email from Monzo and was aware of the position. From everything I’ve seen Monzo acted within the terms and conditions on the account. So, I can’t say they did anything wrong here and I won’t be upholding this part of the complaint.

CIFAS potential fraud marker

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 O is guilty of fraud or a financial crime, but it must show that there are grounds for more than mere suspicion or concern. Our investigator has set out the relevant guidance so I won't repeat that here

What this means in practice is that Monzo must first be able to show that fraudulent funds entered Miss O's account, whether they were retained or merely passed through. Secondly, Monzo also needs to have strong evidence to show that Miss O was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include Miss O 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 O's complaint, I need to decide whether I think Monzo had enough evidence to show fraudulent funds entered Miss O's account and that her actions suggest she was complicit in this.

Miss O says she was complete unaware of activity on her account as she'd lost her phone and card in August 2021. She didn't report it at the time as she thought the bag was misplaced. And she hadn't accessed the account since then.

But I'm afraid that Miss O's version of events simply isn't plausible. I say this for a number of reasons.

- Miss O should have been aware that not reporting the loss to Monzo at the time, in August 2021, was in breach of the terms which say *"When you add your Monzo card to your device you're creating a new payment instrument you can use in the same way as your physical Monzo card. You're responsible for making sure that nobody else has access to any device which you've added your Monzo card to. You're also responsible for keeping your Monzo card details safe and not sharing them with anyone else."*
- I find it odd Miss O didn't report the loss until *after* the CIFAS marker was recorded in September 2022. This was a number of months *after* she'd had the emails from Monzo informing her of its earlier and separate decision to close the account. And their discussion on 4 May 2022 with *her* about an attempted payment that day.
- *After* the card and phone loss in August 2021 the account continued to receive payments from third parties. Those individuals had also paid into the account *before* Miss O lost her phone and card. Whilst this in itself might not be unusual I also find it odd that the payments were always on the same day as expenditure and covered the expenditure from that day for a similar amount.
- There were also cash deposits into the account after August 2021.
- The device registered by Miss O with Monzo to access this account was active from November 2020. Whilst Miss O says didn't access the account after the loss of her phone in August 2021, Monzo's records show a change of device used to access the account on 1 October 2021. And on the following day the device used reverted back to the same one that was registered in November 2020. Monzo told us each time a new device is used to access a Monzo account there is an identity challenge which requires a selfie video. This is compared with the video provided by the customer on opening the account. That's done to ensure the ID and voice used to change device match the video supplied at sign up. There's nothing to explain how this could have taken place without Miss O's involvement.

- Finally, there's a direct credit to the account on 5 November 2021 described as "payroll". On the same day a payment out of approximately two thirds of the amount is made to an account in Miss O's name. Based on what she's told us I find it hard to understand why she didn't contact the bank at the point she received this payment from her Monzo account - which she thought was inactive since August 2021- to report the loss and concerns about unauthorized activity on the account.

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

I appreciate this will be very disappointing for Miss O. But even taking into account the impact she 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. Overall, for the reasons I've given, I don't think Monzo need to take any further action here so I'm not going to uphold this complaint.

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 Miss O to accept or reject my decision before 20 July 2023.

Annabel O'Sullivan
Ombudsman