

The complaint

Miss K complains that Monzo Bank Ltd added a marker at CIFAS, the national fraud database, when it closed her account.

What happened

Miss K says she found out about the marker when accounts she had at other financial businesses were closed. She says she hasn't been involved in any fraudulent activity.

Monzo Bank said it had received a report that money paid into her account had been fraudulently obtained. It was quickly withdrawn. So, it closed her account and added the marker.

Our adjudicator didn't recommend that the complaint be upheld. She spoke to Miss K who said she had no knowledge of this reported credit of £199 and other credits to her account in March 2021. She hadn't been selling items but said that payments sometimes came into her account from family members. Miss K said that she'd been unable to use the app and her ex-partner had it downloaded onto his phone and knew the passcode as he'd set this up. Our adjudicator noted that the same IP address had been used both before and for these payments. She thought that Miss K was complicit in what happened and so there were grounds to add the marker and close the account.

Miss K didn't agree and wanted her complaint to be reviewed. She wanted to know why no one was taking into account that it wasn't her undertaking fraud. She wasn't selling items to anyone, and she wasn't prepared to wait for the six years to pass before the marker would be removed. She said if she had been involved she wouldn't have been contacting Monzo Bank and this service.

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 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. 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.

Here I appreciate that Monzo Bank didn't attempt to contact Miss K at the time, and it says that this was because the evidence was compelling. I also take into account that Miss K did nothing when her account had been closed and says she didn't even know. And she hasn't said she would have had better evidence to show she wasn't involved at the time.

I'm satisfied that a report was made that a payment into her account for an item was fraudulently obtained. This was preceded by other credits of a similar type. And all the money was quickly removed online. I've seen the evidence from Monzo Bank that the same IP address was used before and during the time of this payment to access the account.

I appreciate that Miss K has claimed she let someone use her account. And had allowed that person to have her security information. She doesn't say that this was done without her authority or provide any evidence to support this or what that person did. She was reasonably required under the terms and conditions of the account to keep her security information safe and not let anyone use her account. If this is what happened I think she'd generally be responsible for what that person did. And although she says she contacted Monzo Bank when she couldn't access her account it has no record of that, and she didn't pursue this. There is no evidence to support that any unknown third party could have used her account in this way. I can't resolve whether it was a person known to her or Miss K that used the account, but I think that in either event here she was responsible for what happened.

Monzo Bank says that it applied the CIFAS marker because Miss K received fraudulent funds into her 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. 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 Miss K's account of events and the evidence she 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:

- Miss K received fraudulent funds into her account and didn't report this to Monzo Bank at the time.
- She 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 Miss K had been involved in the use of fraudulently obtained funds based on the evidence it had and so to close her account.

I can appreciate Miss K will be disappointed by my assessment given what she says about the impact of the marker for her.

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 K to accept

or reject my decision before 26 May 2023.

Michael Crewe
Ombudsman