

The complaint

Mr A complains that Monzo Bank Ltd registered a marker at CIFAS, the national fraud database, when it closed his account.

What happened

Mr A says he had no knowledge of any fraudulent use of his account in March 2021. He found out about the CIFAS marker when applications for accounts at other businesses were rejected and then complained.

Monzo Bank said it hadn't made any mistake. It provided details to this service of a payment of £1,945 into Mr A's account on 2 March 2021 which had been reported as being fraudulently obtained. The money was quickly transferred on. And so Monzo Bank closed the account and added the marker.

Our adjudicator didn't recommend that the complaint be upheld. She said that Monzo Bank had provided details of access to the account including the unique device code and the IP address used. Only one device had been registered when the account was opened by Mr A on 12 November 2020 and the security details had never been changed. This device was used to authorise the movement of the fraudulent funds. So, she thought that Mr A had been complicit in receiving fraudulently obtained money. She noted that he'd provided evidence of being subject to identity fraud at other financial businesses but didn't think that this was the case here.

Mr A didn't agree and wanted his complaint to be reviewed. He offered to pay half of the money if the marker was removed noting it had been in place for a third of the normal six-year period. Mr A said he didn't think we understood the impact on his career and mental health. He didn't think we'd looked at all the possibilities. And said that someone had made it look like this was him accessing the account. He referred to proven instances of identity fraud from May 2020 to April 2021 involving his details.

Mr A said he had no knowledge of the payments into his account after he first used it. And the payees for the payments although at times similar to his name didn't correspond exactly and so he thought couldn't have been made to him. He believed that the IP address was hacked. Mr A is unhappy that Monzo Bank didn't follow the correct procedures and contact him at the time. He said he'd lost his wallet in early 2021 but this didn't make sense to explain this fraud. He provided a copy of his current passport and said he'd been using one that expired in 2018 to prove his identification on nights out.

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.

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 appreciate here that Monzo Bank didn't ask Mr A for his explanation at the time. He's been given the opportunity to explain what happened now and I'm not persuaded he's been disadvantaged by this.

He had provided a copy of his information at CIFAS. This shows that application fraud markers were added by other financial businesses in May 2020, June 2020 and April 2021. And he's shown his attempts to get information about them. I'm not looking into what those other businesses did in a complaint about Monzo Bank. But clearly each concluded that he'd been the victim of identity theft. In one case Mr A explains he'd received a letter about a loan for £10,000 to his home address and was able to stop this being taken. Another related to an insurance policy taken out with his details.

He opened the account at Monzo Bank in November 2020. It seems that by then he was aware of the past issues and the application fraud markers would likely have involved more stringent checks by any new financial business.

The device registered and the IP address were recorded as being used when Mr A opened the account. I'm satisfied that the same device details have been used throughout the operation of the account. And the IP address used when the fraudulent money was paid out was the same as that used when his account was opened.

Our adjudicator has discussed all the payments on the account with him. He says he only made the first small ones. And so didn't seem to have any use for the account. I note from Monzo Bank's records that it was contacted by online chat on 26 November 2020 for help with a payment. This for £5 went out that day. And then there was a credit for over £3,000 to the account on 30 November 2020 and which was paid out within minutes of receipt. I need to say that the statement narrative doesn't necessarily correspond to the name on any receiving account. There was a further credit from a government body of over £1,000 in January 2021 that was again paid out within about 30 minutes of receipt.

Mr A has also provided evidence that he was in employment and says that his salary was going into another bank account. He has provided evidence that he was working at home on the day of the fraudulent credit.

I'm satisfied that a payment of £1,945 on 2 March 2021 into his account was reported as fraudulently obtained and can see that all the money was quickly paid on by faster payment.

I'm not clear that his possible loss of either his Monzo Bank card and/or passport earlier in 2021 is relevant here. And neither is that he said he wrote down passwords and kept them in his wallet. The account was opened before that loss and on Mr A's version of events had then been taken over by a fraudster.

While I don't have reason to doubt that he'd been a victim of identity theft on other occasions I don't find it *most likely* that was the explanation here for a number of reasons. I note the time over which he says that the account was taken over, and during which a fraudster increasingly risked detection. It would seem he'd already have a heightened awareness of the risks of identity theft and also when he'd lost items. There is no evidence to support his Monzo Bank account being hacked. And there was no change to the device accessing it. The person making the payments needed to have access to the account just at the time payments came in and for example couldn't likely predict when the payment would arrive. Even if Mr A had say allowed someone else to use this account and device with his details (and which isn't his explanation) I consider he'd be responsible for what happened. And he has no evidence to support how an unknown third party could have used his account. I finally note that he didn't seem to question why the account had been closed and again had no need to use it despite having opened it.

Monzo Bank says that it applied the CIFAS marker because Mr A received fraudulent funds into his 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 Mr A's account of events and the evidence Monzo Bank has provided, I'm satisfied that it had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr A received fraudulent funds into his account and didn't report this to Monzo Bank at the time.
- He 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 Mr A had used fraudulently obtained funds based on the evidence it had.

Given this I'm satisfied the Monzo Bank had grounds to close the account in line with the terms and conditions. I appreciate what Mr A says about the impact of the marker for him but I'm afraid I don't have a reasonable basis to require Monzo Bank to do anything else.

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 A to accept or reject my decision before 5 May 2023.

Michael Crewe
Ombudsman