

## **The complaint**

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

## **What happened**

Mr B says he has been the victim with his account being taken over. He says he wasn't involved in receiving any fraudulent funds and the marker was added unfairly. This is affecting his ability to access other financial products.

Monzo Bank said it hadn't made any mistake. It had received reports that money paid into Mr B's account in January 2022 was obtained fraudulently. And it had decided to close the account and add the marker.

Our adjudicator didn't recommend that the complaint be upheld. Mr B had told her that he'd seen a payment into his account of £800 and he had no knowledge of the source. And that he'd told Monzo Bank this and that his account had been used by someone else. He also said that he'd lost his wallet which had his account card, driving licence and a card for another bank about four days earlier. He hadn't realised thinking this was in his room and had made card payments using his phone.

She had listened to calls Mr B had with Monzo Bank about the account and the remaining balance. On 11 January 2022 he'd requested that the remaining funds (of £791.80) be sent to his account at another bank. But this was the remainder of the funds Mr B had said he didn't recognise. He further called on 18 January 2022 saying that not having this money was causing him emotional trauma and he wanted reimbursement. He'd said that the money had been sent to him on his behalf. But that was inconsistent with him saying that this wasn't his money. There was no evidence of any other payments into the account, for example his salary, that could be his. And he did have another account to receive those payments. She'd discussed what happened with him and had asked him to provide any more information including about his own phone and the IP address he'd been using.

Mr B didn't agree and wanted his complaint to be reviewed. He said that he thought that his salary had been mixed up with these payments and that's why he'd mentioned the money to Monzo Bank. He had given the 'IMEI' number already for his phone. And he didn't think that his side of the story had been listened to. Other funds in his account were legitimate. He thought that what he'd said to Monzo Bank had been taken out of context.

## **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.

Monzo Bank has provided recordings of its calls with Mr B about the account. As our adjudicator says he asked for the remaining money in the account on 11 January 2022, when he knew it was being closed. He called again about this on 13 January 2022. And also, on 18 January 2022 when he said that this was money he needed to go to work, and that Monzo Bank was supposed to refund this. I didn't hear him say that any money in the account wasn't his.

I've looked at the statement for the account with the first entry on 30 December 2021. Mr B was transferring small amounts into the account. There is no evidence of any salary or other payment. The credit of £800 and another payment reported as fraudulent for £300, which our adjudicator mentioned to Mr B too were both received on 9 January 2022. The £300 was transferred out. And only part of the £800 used before the account was blocked. Mr B discussed with our adjudicator having himself used the account on 8 January 2022 and making small transfers from an account at another financial business on 8 and 9 January 2022.

Mr B says his account was taken over and used by someone else. I appreciate he says he lost his card which had his account number on it. But that doesn't explain how someone would also have the security information needed to access the account so that any money could be transferred on. Our adjudicator asked Mr B for his own IP address and phone details to compare to the records from Monzo Bank. He hasn't provided all of that. But I'd still need to think about how it was possible for a device other than his to be used and whether say he'd allowed this to happen. His explanation isn't for example that someone tricked him into getting access.

I've taken into account everything that has been provided. I note in particular the lack of evidence to support his account being taken over. And also, that he seemed to want to receive the remaining funds when the account was to be closed. I consider it most likely Mr B was complicit in what happened. And that as a result it was reasonable for Monzo Bank to apply the marker.

Monzo Bank says that it applied the CIFAS marker because Mr B 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 B'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 B 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 B had used fraudulently obtained funds based on the evidence it had.

As a result, I don't see it acted outside the terms and conditions in closing the account. I appreciate what Mr B says about the impact of the marker for him and his job but I'm afraid I don't have a reasonable basis to require Monzo Bank to do anything more.

### **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 B to accept or reject my decision before 4 August 2023.

Michael Crewe  
**Ombudsman**