

The complaint

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

What happened

Miss C says that the marker is affecting her ability to get an account elsewhere and save money.

Monzo Bank said it hadn't made a mistake and that it had followed its internal processes and complied with its obligations.

Our adjudicator didn't recommend that the complaint be upheld. Miss C had received a payment of £320 into her account on 6 June 2022 that had been reported as fraudulently obtained. She had transferred £270 of this to a third party that day. Miss C said she had never been told about the issue with this payment. On her complaint form she said that this Monzo Bank account was the one she used for savings or if people were sending her money. She then explained that she let her boyfriend use her card as he didn't have a bank account. Miss C said that this money had been sent by a friend of his and she couldn't remember the reason. This often related to bets and money he was owed. She provided a screenshot she said showed she had been asked to send the £270 to another friend of his. Miss C said that she didn't personally know the people involved but he had known them for a while. Our adjudicator considered that Monzo Bank had grounds to apply the marker and close her account.

Miss C didn't agree and wanted her complaint to be reviewed.

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.

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 Miss C was deliberately complicit in what happened include whether she knew or ought to have known that the money wasn't legitimate, whether she may have benefitted from the money by keeping part and whether she has provided generic or inconsistent explanations.

I note that Monzo Bank has provided evidence that it sent Miss C a message on 7 June 2022 with a number of questions about her account including the source of and her entitlement to this credit of £320. And the reason for the payment out of £270. It doesn't appear she read this or contacted Monzo Bank after her bank account was closed.

Our adjudicator has set out the entries on 6 June 2022. And I can see that on 7 June 2022 £32 was also sent from the account and the reference of the payee for that was Miss C.

Miss C didn't explain at first that she allowed someone else to use her account. And she has only provided her testimony about this. It isn't possible to verify the screenshot, but it doesn't provide any background to support what she says about the reason for receiving and sending the money.

I'm afraid I consider Miss C was reasonably responsible for what happened on the account. And for ensuring she knew about the credits being received and the payments made. On her version of events, she had no real idea where the money was coming from and what it was being used for. And she was in control of the payment out of £270 and it appears retained at least part of the related credit. She had the opportunity at the time to provide evidence to Monzo Bank. Unfortunately, the credit had been reported as fraudulent and I think on the evidence she was *most likely* complicit in what happened for the reasons I've given.

Monzo Bank says that it applied the CIFAS marker because Miss C received fraudulent funds into her 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 Miss C'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 C 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 C had used fraudulently obtained funds based on the evidence it had.

In the circumstances I don't think it was unreasonable for it to decide to close her account taking into account its terms and conditions. I can appreciate how disappointed Miss C will be 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 C to accept or reject my decision before 17 October 2023.

Michael Crewe
Ombudsman