

The complaint

Mr M is unhappy that Monzo Bank Ltd closed his account and loaded an adverse fraud marker against his name.

Mr M is represented, but for ease, I will refer to him throughout.

What happened

As both parties are familiar with the circumstances of this complaint, I've summarised them briefly below.

Mr M held an account with Monzo. On 25 March 2023, Mr M's account was in receipt of a £750 payment from a third-party. Shortly afterwards, Monzo received a report from the third-party bank that their customer had been defrauded.

Monzo carried out a review of Mr M's account and decided to close it immediately. It also loaded a marker to Cifas—a fraud prevention agency—alerting its members that Mr M had misused his account.

Mr M was unhappy with this decision. He told Monzo that he was selling a phone online, and the payment was for the sale of this device. He accused the buyer of picking up the phone and then falsely reporting it to their bank as fraud.

Monzo reviewed Mr M's concerns, but concluded it'd not made an error in closing the account or loading the marker. It pointed to inconsistencies in Mr M's testimony against that of the third-party. And it found it had followed process correctly.

Mr M remained unhappy with Monzo's outcome, so he brought his complaint to our service for an independent review. An Investigator considered the evidence of both parties but concluded Monzo had made no error. Broadly, they found that the marker was loaded in line with the expectations set out by Cifas. They also concluded that the account closure was fair and in line with its terms and conditions.

Mr M disagreed. He reiterated his assertion that he'd merely sold a telephone and was taken advantage of by the buyer – who dishonestly reported the fraud despite receiving the phone. He also argued that some of the discrepancies highlighted by the Investigator were explainable.

As Mr M didn't agree with the Investigator's assessment, the matter has now been passed to me for a final decision.

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.

Cifas loading

One of the relevant considerations here is set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards regarding this complaint are:

1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
2. That the evidence must be clear, relevant and rigorous.

My interpretation of these standards is that a member cannot simply load a marker against an individual based on mere suspicion. It must be able to meet a higher bar; in that a customer was likely a witting participant in the alleged conduct.

Furthermore, Cifas released guidance to its members in 2020 when dealing with potential money mules. The guidance provided members with instructions on what minimum expectations are required as part of its investigation before making a loading. This was to ensure its members weren't loading victims of crime or unwitting money mules.

Among other things, the guidance instructs its members to contact its customer to provide them an opportunity to explain the alleged activity.

Considering the above, it's clear in the circumstances of this complaint that Monzo has failed to follow this guidance. It didn't provide Mr M an opportunity to explain the activity reported, and it failed to give him a chance to submit evidence in support of any testimony before deciding to load him to the database.

As Monzo hasn't followed the guidance Cifas has set out for such scenarios, it's unlikely it had sufficient information at the time of loading to do so. However, I must consider the evidence I do have in order to assess if the marker should now be removed.

Having done so, I'm not persuaded from the information provided by both parties that the marker should be removed: I'll go on to explain why.

Mr M, through his representative, has provided a number of documents in evidence of his testimony that he was selling a phone online. This includes a partial invoice of the purchase of that device, a screenshot of the advert selling it and some messages between Mr M and the third-party buyer.

Having considered these documents carefully, there are a number of inconsistencies I've identified:

- Some of the spacing between messages appear inconsistent.
- The date and time stamp, along with the background, for both screenshots provided of the same messages are different.
- The advertisement for the telephone was posted on 25 March 2023. Yet the messages to and from the buyer begin on 25 March 2023 at 5:53 am.

Mr M has provided a possible explanation as to why the dates, times and backgrounds of both screenshots of the same messages are different, but I don't find this to be persuasive. While a background may differ with a change of device, there is no explanation as to how the times of the messages could have been altered. Furthermore, the date and time on the screenshot Mr M has provided where he sent his bank details to the buyer were sent after the payment had already been made.

There are also unusual discrepancies in the messages sent between Mr M and the buyer.

For instance, at one point in the conversation, the buyer says that they are outside Mr M's address. They then later message to ask if it's ok to depart and make their way to Mr M's address. The buyer also begins the conversation by saying they will collect the phone the following day, but then goes on to say they will set off soon on the same day.

The messages provided by Mr M also don't go far enough in showing that the item Mr M says he was selling was in fact handed over in exchange for the money paid. They end with Mr M saying that he'd message from a different number. But Mr M hasn't been able to provide this additional thread of messages between him and the buyer.

I've also taken into consideration some of the features of the payment itself. The reference attached to the payment doesn't relate to the sale of a phone. The reference used by the sending account holder relates to the purchase of different goods altogether and matches the fraud report made against Mr M's account.

I acknowledge that the findings I've made above are individually circumstantial. And they don't necessarily prove beyond doubt that Mr M was wittingly involved in the laundering of criminal proceeds. But I do find that these make the evidence Mr M has provided unreliable, and therefore casts doubt over the testimony given. As such, I find that the standards set out by Cifas for loading a marker have been met considering this evidence. I therefore won't be asking Monzo to remove the marker.

Account closure

Banks, much like customers, are entitled to terminate their business relationships. As long as that termination is in line with the accounts' terms and conditions, doesn't breach law or regulations and is, what I consider to be, fair and reasonable.

Here, Monzo closed Mr M's account without notice. I've considered this against relevant regulations and the terms and conditions of Mr M's account.

Monzo's terms set out that it can close a customers' account if they've:

- Broken the law (or attempted to break the law) or the terms of the agreement.
- Put Monzo in a position where it might break the law or are at risk of action from a regulator, law enforcement agency or government body.

As Monzo had received a report from a third-party bank that Mr M's account was in receipt of fraudulent funds, I find the immediate closure fair. Not only is this in line with the terms of the account, but Monzo was placed in a difficult position of being at risk of receiving further illegitimate payments. I therefore find it fair that it sought to take immediate action to prevent this.

While I know Mr M will be disappointed with my assessment and conclusions, I want to reassure him that they are not designed to accuse him of any wrongdoing. I am merely assessing if Monzo has acted fairly in closing his account and retaining the marker against his name in line with Cifas' guidelines, and what is fair and reasonable.

For all the above reasons, I don't find Monzo has made an error in retaining the marker as a result of Mr M's complaint, or, in the way it closed his account.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 March 2024.

Stephen Westlake
Ombudsman