

The complaint

Mr O complains that Monzo Bank Ltd have recorded a marker against him with the fraud prevention agency CIFAS. He'd like the entry removed.

What happened

For this complaint Mr O has appointed representatives, but for ease of reading I'll only refer to Mr O throughout this decision.

Mr O opened an account with Monzo in October 2022. He received several transfers into the account. On 22 October he received a payment of £150, followed by a payment of £630. £400 of this was withdrawn as cash the same day, and some transferred to another account two days after. But the transfer of £630 was later reported as fraudulent. Monzo took the decision to close his account and returned the remaining balance of approximately £45 to the sending bank. They also recorded a marker with the fraud prevention agency CIFAS for carrying out first party fraud.

When Mr O found the marker, he complained to the bank. He said he'd been having difficulty transferring funds from his home country to the UK to pay a rental deposit. He said he had arranged through a friend to transfer funds from his wife's account in Nigeria, and in return receive an equivalent amount in the UK. He didn't communicate with the sender directly. But when all the money had been transferred, he'd only been expecting £400 so he'd sent the excess to someone he didn't know. He said he had acted in good faith, and the marker was preventing him from finding work in financial services.

Monzo responded to say that they'd reviewed the CIFAS marker and were satisfied it was applied correctly. They said they had followed their internal processes and it should remain.

Unhappy with this Mr O referred his complaint to our service. One of our investigators looked into what happened. Initially they thought that Monzo hadn't met the standard of proof to record a CIFAS marker and asked for it to be removed. But Monzo disagreed, saying that they were satisfied they could record the marker. They said given Mr O's stated career in finance, he ought to have been aware that passing on funds from an unknown source might be an illegitimate payment. But they said they had changed the marker to show that Mr O was a witting money mule.

After consideration the investigator changed their mind, reasoning that they would've expected Mr O to refuse receiving funds from a third party. In the circumstances they felt he enabled fraud either wittingly or by being grossly negligent.

Mr O disagreed, saying that this outcome was based on his professional background, rather than the weight of law. He said he wasn't excluded from the protection offered by banks to victims of fraud. As no agreement could be reached the complaint has been passed to me to decide.

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 have rules and principles around what can be recorded on their national fraud database. I won't detail these in full here, but broadly before a CIFAS marker can be recorded, Monzo need to have carried out sufficient checks to satisfy themselves that fraud or financial crime has been committed, and that there are reasonable grounds to believe Mr O was complicit in or aware of this financial crime.

It doesn't appear to be disputed that the payment into Mr O's account was because of fraud – it was reported as such by the sending bank. Mr O hasn't claimed to know the sender or sought funds from them directly. So, I'm satisfied the funds paid in were fraudulent.

It's also not disputed that Mr O withdrew these funds from his account – through two cash withdrawals and a bank transfer. So, the question for me to answer is whether the evidence is clear and rigorous enough to show that Mr O was a witting party to this, such that a CIFAS marker can be recorded. Overall, I'm satisfied that the evidence meets this standard. I'll explain why.

Mr O has said he was expecting the payments after arranging it with his friend but was later confused why he had received more than expected. But from the text exchanges he's sent us, it doesn't appear Mr O asks any questions about why he has received more than expected. I can see he acknowledges receiving the first payment of £150, which shows me he was monitoring the account and could see what was paid in. This is backed up by the records of the logins to mobile banking. This suggests to me the amounts paid in weren't unexpected.

It also would have been clear from the transfers that the payments had come from two different sources – and neither of them appear to be names Mr O would have expected to receive funds. But Mr O doesn't ask questions about this.

It's also unclear why Mr O would then return the excess amount to a third party, rather than where it came from. I note from his original submissions to our service he said he didn't know this third party. But in the text exchanges he's submitted his friend identifies it as their own account, and they will be forwarding it on. So, there are inconsistencies to his story about where these funds went.

I've considered the evidence Mr O has sent of a transfer made from the Nigerian account – but this is in another name. I've noted the difference in exchange rate – but also taken on board the explanation provided as to why this was. But this only applies to the original £400, not the £730 received in total. This could have prompted concern or questions from him.

Our service did ask about the funds withdrawn as cash, as we were told that this was paid to a landlord as a deposit. But we've received no evidence of this deposit, or where the remainder of the funds for deposit came from. Or why this was done in cash. So, I'm not able to say with any certainty where the cash withdrawn ended up. But if I accept he used the funds to pay a deposit, then he has benefited from the fraudulent funds.

I've considered Mr O's stated reasons for receiving the transfer of funds in the way he describes. And I thank him for the additional context for the messages sent. However, it's very clear to me the fact that more money than expected was received, from sources that also wouldn't have been expected.

Mr O then rapidly moves these funds on rather than question the legitimacy of them. Which is something I would expect a reasonable person to do, and especially in the context of Mr O's stated profession in financial services. So, based on the evidence available to me I can only conclude that he was a witting party in moving funds that were likely illegitimate.

As such I'm satisfied that Monzo have enough information to record the marker with CIFAS, and I wouldn't ask them to remove it. They say they have amended it to reflect that Mr O was a third party facilitator, which based on the information available is reasonable.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 3 April 2024.

Thom Bennett
Ombudsman