

The complaint

Ms B complains that Monzo Bank Ltd registered a fraud prevention marker against her without due cause.

What happened

In April 2023, Ms B received three payments into her account totalling £820. The funds were then quickly withdrawn from an ATM and transferred out of the account via online banking.

Ms B says at the time of the payments, she was 17 years old. She had agreed to set up the account in her name for a friend's boyfriend who, for the purposes of this decision, I will refer to as "A".

A had asked Ms B to open an account in her name for him to use. Ms B says he told her he was having problems with his own bank account due to some payment limits that were being applied to his account and he was in the process of selling some games consoles, so he needed access to a bank account.

Ms B says she asked A if he was planning to use the account for fraudulent purposes, but he assured her he wasn't. And he showed her some screenshots which evidenced he was selling games consoles too. Ms B says she naively believed what A told her and she set up the account on his behalf and then gave him the linked debit card. Ms B said she did this as a favour and was not offered any financial incentive for doing so.

It transpired that the payments into the account were fraudulent. Shortly after they were received, Monzo received notifications from the sending banks that the payments sent to Ms B's account were sent as the result of a fraud. Someone had purported to be selling games consoles / a mobile phone on a social networking website but the consoles / mobile phone weren't received after the buyer made payment for them.

Monzo reviewed Ms B's account in line with its terms and conditions and made the decision to close the account and register her to Cifas in May 2023.

As a result, one of Ms B's other bank account providers closed her account. At this point, Ms B discovered she had a Cifas marker registered against her. Ms B reported what had happened to her to the Police and Action Fraud.

Ms B also complained to Monzo but Monzo felt it had acted correctly. It explained that it'd received notifications from third-party banks that her account had been used to receive fraudulent credits and it appeared the account had been set up for this sole purpose. Ms B hadn't been able to demonstrate she wasn't complicit in the fraud.

Unhappy with Monzo's response, Ms B came to our service, and our investigator reviewed what had happened. They felt Ms B was being sincere when she explained that she had simply been a naïve victim of A. They felt Ms B hadn't known A was going to use the

account for fraudulent purposes. The investigator recommended Monzo remove the Cifas marker.

Monzo didn't agree. It accepted Ms B was young but it said she had willingly set up an account that was used to facilitate fraud. It said it didn't think it was plausible that Ms B had simply believed what she was told by A and she hadn't been able to evidence any conversations that she said had taken place about the opening of the account.

As an agreement could not be reached, the case was passed to me to decide.

I reviewed all of the evidence available, and I reached out to Ms B for some further information. I also shared my initial thoughts with Ms B - I didn't agree with our investigator that Monzo had acted unreasonably in loading the Cifas marker against her as she hadn't been able to provide any evidence to show that she had set up the account at the request of A to receive legitimate funds.

Ms B said she realised she now had very little evidence to support her case but this was because all of the conversations about the setting up of the account had taken place on a social networking website where messages disappear after 24 hours.

As no agreement could be reached informally, the case is now with 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.

Having done so, I've reached a different opinion than the one recommended by our investigator. I'm not persuaded Monzo have acted unreasonably by loading a Cifas marker against Ms B. I'll explain why.

The type of Cifas marker Monzo asked to be applied is for 'misuse of facility' – relating to the account being used to receive and withdraw fraudulent funds. To file such a marker, Monzo are not required to prove beyond reasonable doubt that Ms B is guilty of a fraud or a financial crime, but they must show that there are grounds for more than mere suspicion or concern that one took place. Cifas guidance says:

- There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]
- The evidence must be clear, relevant and rigorous.

In Ms B's case, there is no dispute that the funds that were received and sent on / withdrawn were fraudulent. So, the relevant finding for me to make is whether I believe Monzo have sufficient evidence to conclude that Ms B was deliberately dishonest in her actions in relation to these funds – or whether she was an unwitting victim.

Ms B says the account was set up at the request of A to avoid some payment limits that were being applied to his account. But Ms B hasn't been able to provide any evidence to support this is what she had been told when she agreed to open the account. And this means I haven't seen any evidence that demonstrates Ms B was an unwitting victim here. And I understand why Monzo believe Ms B has been deliberately dishonest.

Ms B says A told her that he would need her to open an account to facilitate his “buying and selling business” and to avoid certain payment limits. She’s told us she set up the account and handed the debit card to A and then whenever credits were paid into the account, either A would withdraw the funds or she would transfer them to his account. But there is simply no evidence to support this. In fact, I haven’t seen any evidence that that supports Ms B was told she would be setting up the account for legitimate purposes at all. Because of this, and the fact funds were removed through ATM withdrawals it is also not clear whether Ms B profited from the fraudulent funds in any way.

I also think it’s reasonable for Monzo to say Ms B was most likely aware that when opening the account it might be used for fraudulent purposes – she asked A this specific question and this demonstrates she had concerns about this from the outset, and may not have been naïve about such matters.

I’m also not satisfied that given these concerns, A’s reasoning as to why Ms B was being asked to open a bank account was plausible. It’s unclear why A couldn’t use their own bank account or what legitimate limits could be affecting their account. Also, some of the funds were transferred from Ms B’s account into A’s account. So, if Ms B could transfer to A’s account and he could access the money, there’s no reason why those he was supposedly selling to couldn’t do the same. Nor is it clear why A was apparently selling multiple games consoles. All of the above suggests to me that it would’ve been reasonably clear at the time that something wasn’t quite right here and that Ms B was being asked to facilitate the use of fraudulent funds. I appreciate she may not have known exactly what A was doing, but it seems likely that she knew the account was being used for something illicit.

I know this outcome will disappoint Ms B, especially as it differs so significantly to the one reached by the investigator. But in order to uphold Ms B’s complaint, I would need to see some evidence that supports she was an unwitting victim and I haven’t seen any persuasive evidence that supports this position.

My final decision

My final decision is that I do not uphold this complaint about Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss B to accept or reject my decision before 28 January 2025.

Emly Hanley Hayes
Ombudsman