

## The complaint

Mr M complains Monzo Bank Ltd registered a fraud marker at Cifas, the national fraud database. He doesn't think it's done so fairly.

## What happened

Mr M held an account with Monzo. On 20 June and 8 July 2023, the account received was payments of £220 and £290 respectively from a third party through bank transfers. The funds were then immediately removed by Mr M. He sent these to a friend and to himself. A payment that came into the account was identified as fraudulent because the bank from which the funds had come, notified Monzo its customer had been the victim of a fraud and scam.

Monzo conducted a review and closed the account and loaded a misuse of facility marker at Cifas.

Mr M contacted Monzo in early 2024, to complain after finding out about the marker when he had trouble opening a bank account. He said he'd not done anything to cause this. Monzo asked Mr M for some further information about the payments that had come into his account and been removed. He said he didn't know anything about the credits and believed someone had been using the account. He told Monzo that he'd checked the account, seen the funds and paid his friend because he owed him money for clothes. He added that he assumed the money was his and hadn't realised that someone was using his account.

Monzo said it had recorded the marker it in line with its internal policies and regulatory obligations and declined to remove it. Mr M didn't think this was fair. So, he referred his complaint to us.

One of our investigators reviewed matters. She acknowledged what Mr M had said but didn't think Monzo had treated him unfairly given the evidence it had. In particular, she noted Mr M had only ever had two credits come into his account and he'd said the money had nothing to do with him. In the circumstances, there wouldn't have been any reason for him to believe that the money in the account was his. She also noted the funds had been removed immediately, rather than him reporting the matter to the bank.

She believed the evidence Monzo had showed Mr M was complicit in receiving fraudulent payments in his account. In the circumstances, she didn't think that it was unfair for Monzo to record the fraud prevention marker.

Mr M said he couldn't explain the transactions, other than he'd genuinely paid a friend and had thought the money was his. He added Monzo had never given him the opportunity to explain things and he hadn't known what Cifas was until he began looking into this.

Our investigator didn't change their mind, so the case has been escalated to me as the second and final stage in our process.

## 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'm sorry to disappoint Mr M but I'm not upholding his complaint.

The marker that Monzo has filed is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, it's not required to prove beyond reasonable doubt that Mr M is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant 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.

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Mr M's account, whether they are retained or pass through the account.

Secondly, the bank will need to have strong evidence to show that Mr M 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 to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity. To meet the standard of proof required to register a fraud 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 to understand their level of knowledge and intention.

So, I need to decide whether I think Monzo has enough evidence to show fraudulent funds entered Mr M's account and he was complicit. And I'm satisfied it has. I'll explain why:

- I've seen evidence from Monzo that it received a report from a different third-party bank saying that funds which entered Mr M's account were as a result of a fraud. He doesn't dispute this.
- Mr M has said someone else must have been using his account to send money to it and he knew nothing about this. Here, the payments that credited his account did so on two different dates, and was withdrawn by Mr M twice and for exactly the same amounts that came in. I've thought about what he's said, including the possibly that he may have been mistaken that the money was his, but I think he would have known if he'd paid over £500 in. Also, I don't find it persuasive that an unknown third-party would have been using Mr M's account without his knowledge, only for him to have control of the funds.
- Considering this and the overall activity on the account since it was opened, it is consistent with using the account to allow illegitimate payments into it and complicity.

Having weighed everything, I accept Mr M may not have fully appreciated that the activity and his involvement in this could result in a marker at Cifas, and his account being closed. But ultimately, the marker that's been loaded relates to a misuse of an account facility which is exactly what's happened here. I can't see Monzo contacted him at the time but looking at the evidence the bank had, and Mr M subsequently gave it, I'm satisfied Monzo had enough to justify recording the marker. It follows that I'm not going to require Monzo do anything to resolve this complaint.

**My final decision**

My final decision is that I don't uphold this co

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 December 2024.

Sarita Taylor  
**Ombudsman**