

The complaint

Mr W complains that Monzo Bank Ltd unfairly registered a marker about him at Cifas, the national fraud database.

What happened

Mr W had an account with Monzo which he'd opened in 2020. Mr W's account had an overdraft facility of £2,000.

Mr W has said that he used the account to receive money from his job and family.

On 2 January 2023, a payment of £150 was made into Mr W's account, from an individual I will refer to as Mr D.

At the time the payment was made, Mr W's account was close to its overdraft limit, so the funds were absorbed by this. Immediately after receiving the funds, Mr W attempted to make a payment to a money transfer service, I will refer to as M. But the payment was declined. So, Mr W then moved payments in and out of his account, until he was able to facilitate a payment of £153.99 to M, using his mobile banking device.

Monzo were notified by another bank that the payment Mr W had received from Mr D were fraudulent and that their customer had been the victim of an investment scam.

Monzo decided to block and then close Mr W's account. Following this Monzo decided to place a fraud marker against Mr W's name with Cifas. This was for misuse of a facility in relation to retaining fraudulent funds.

Mr W discovered the marker when he completed a subject access request with Cifas in December 2023. Mr W complained to Monzo and said that the marker was preventing him from opening other accounts. So, he asked Monzo to remove the marker.

In response Monzo asked him to explain the payment from Mr D. And to provide evidence of his entitlement to the funds. In response Mr W, said he didn't have access to his bank statements so couldn't provide much information. But he told Monzo he knew nothing about the payment, didn't know Mr D and told Monzo he was willing to send the money back.

Monzo reviewed everything including what Mr W had told them. After doing so, it said it wasn't willing to remove the marker. But acknowledged that it should have asked Mr W for more information even though it wouldn't have changed the outcome.

Unhappy with this response Mr W brought his complaint to our service. He wants Monzo to remove the marker. He said the marker has led to the closure of bank accounts he had. And that it was impacting his ability to take out credit and open other accounts. He maintained that he hadn't done anything wrong and wasn't a fraudster. He explained that he hadn't contacted the bank at the time as he was coping with a bereavement and looking after his father.

An investigator looked into Mr W's complaint and asked Monzo and Mr W for some more information about what had happened. The investigator sent Mr W his bank account statements. In summary, Mr W told the investigator:

- He didn't know Mr D and couldn't explain why he had received the funds.
- He hadn't contacted Monzo at the time due his difficult personal circumstances.
- The payment he made to M was a result of him falling victim to an investment scam. He never reported this at the time as he was trying to cope with challenging circumstances at home.

After reviewing everything the investigator said that Monzo hadn't done anything wrong when it had recorded the marker against Mr W's name. And closed his account. So, they didn't uphold the complaint.

Monzo agreed with what the investigator said. Mr W didn't. He wants the marker removed and said that is impacting his credit file and ability to open a bank account. Mr W also said that he was disadvantaged because he didn't have access to his bank statements, due to his account being closed, so he wasn't able to defend his position.

As no agreement could be reached the matter has come 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.

The marker that Monzo filed with Cifas against Mr W is intended to record that there's been a 'misuse of facility' – relating to using his account to receive fraudulent funds. In order to file such a marker, they're not required to prove beyond reasonable doubt that Mr W is guilty of a fraud or financial crime, but they must show that there are grounds for more than mere suspicion or concern. Cifas 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 W'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. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show *deliberate* complicity. There's also a requirement that Monzo should be giving the account holder an opportunity to explain what was going on.

Here Mr W received funds into his account that were confirmed by a third -party bank to have originated from fraud. The bank reported that their customer had fallen victim to an investment scam. And had sent money to Mr W but had received nothing in return.

In December 2023, Mr W contacted Monzo after he discovered the marker. Monzo told Mr W that they had concerns about the payment that had been paid into his account by Mr D. Monzo asked Mr W to send them evidence of where the funds had come from and proof that

the money belonged to him. In response Mr W told Monzo he didn't know anything about the money and didn't know Mr D. So, he had no evidence to provide. He said he wasn't entitled to the money and that Monzo should send it back to the person who sent it to him.

Whilst I'm satisfied Monzo did provide Mr W with an opportunity to explain why he'd received the money from Mr W, after he complained, I think it could have explored things further at the time, which is also in line with Cifas guidelines. With this in mind I can see the investigator asked Mr W to provide any information he had about his entitlement to the money he received from Mr D and what he did with it. The investigator also sent Mr W his account statement to help him remember what had happened at the time.

In response, Mr W

Based on Mr W's response, I think if Monzo had asked Mr W about the payments it's likely that he would have provided the same information to them.

So, I need to consider whether based on all the information including the evidence Mr W has submitted to us, whether Monzo had sufficient evidence to meet the standard of proof and load a marker for misuse of facility with Cifas. Having looked at all the information provided, I'm satisfied they did, and I say this because:

- I've seen the evidence from Monzo that confirms they were notified by another bank that the money Mr W received from Mr D originated from fraud.
- Mr W has said he knows nothing about the money Mr D sent him – he said he can't explain it and he wasn't expecting it. Mr W has also said he hasn't shared his banking details and hasn't allowed anyone to use his account.
- I've considered what Mr W has said about the money he received from Mr D. But I've also looked at the evidence Monzo has provided, and this paints a rather different picture to what Mr W has said about the funds.
- I say this because Monzo has provided technical evidence to show that within half an hour of Mr W receiving the money from Mr D he attempted to send it to M using the trusted mobile device linked to the account. When this was declined, due to insufficient funds, Mr W moved money from his Flex account to facilitate a payment of £153.99 to M. All the transactions were made using the device Mr W linked to his account. If, as Mr W has suggested, he wasn't expecting the funds, I can't see why Mr W would do this.
- If Mr W didn't think he was entitled to the money from Mr D I would have expected him to have alerted Monzo that there was fraudulent activity on his account. But I've not seen any evidence that he did so.
- I note too that Mr W's account was primarily used for the receipt of Student Loan funds, wages and payments from third parties. The funds in the account were usually utilised on day-to-day merchant card spend. There are some cash deposits and funds being exited to third parties on the account. The activity is what I'd usually expect for a university student up until 30 December 2022, when there are multiple payments to M and other money services. These payments were made up until Mr W's overdraft couldn't utilise them. This is in line with the how Mr W spent the funds he received from Mr D.
- Most significant is that more recently Mr W has told us that he did make the payment to M, which would have required him to have some knowledge of the money he received from Mr D as the payment made use of Mr D's funds. Overall, this leads me to doubt the credibility of Mr W's version of events and suggests to me that Mr W was potentially involved in fraudulent behaviour.
- I've considered what Mr W says about the impact the marker has had on him. But he hasn't described being placed under any duress or being especially vulnerable. In my

view, based on all the evidence, I think it's most likely he allowed his Monzo account to be used for receiving fraudulent funds. And I think he was a willing participant in this and in moving the money on and spending it. And that he reasonably knew this wasn't a legitimate activity. So, I'm not convinced Mr W is an innocent party. I think the evidence shows that Mr W was involved in a misuse of facility.

In summary, the requirements around banks lodging markers at Cifas include there being sufficient evidence that the customer was aware and involved in what was going on. Mr W has received funds into his account that have originated from fraud. He has been unable to provide any corroborative evidence to support his testimony that he is an innocent party of the transfer of the funds and was unaware of their origins. I also find that the suspicious circumstances of the movement/use of the money and explanations provided by Mr W about what he did with Mr D's money adds weight to this argument.

Having looked at all the evidence I'm satisfied this shows there were reasonable grounds to suspect that fraud had been committed. And from evidence I've seen that Mr W was likely complicit in this. So, while I acknowledge Monzo didn't ask Mr W very much about the money (as it should have) and could have done more to investigate the wider circumstances about the payment Mr W received and given Mr W more of a chance to defend his position, I'm satisfied had it done so, the marker would have achieved the burden of proof required. On this basis I didn't think it would be fair or reasonable to ask Monzo to remove the marker or pay Mr W compensation.

My final decision

For the reasons I've explained, 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 W to accept or reject my decision before 18 March 2025.

Sharon Kerrison
Ombudsman