

The complaint

Mr A complains Monzo Bank Ltd recorded a marker against him at Cifas, a national fraud database. He doesn't think it's treated him fairly.

What happened

A summary of what happened is below.

Mr A held a current account with Monzo. On 27 and 28 February 2024, the account was credited with two payments of £50 from different third parties through a bank transfer. Mr A removed some of the funds shortly afterwards. However, both incoming payments were later identified as fraudulent, because the banks from which they had come, notified Monzo its customers had been the victim of a fraud and scam.

Monzo restricted the account and requested some information from Mr A to explain the purpose of the payments that had come in and out. He said he didn't recognise one of the payments, so Monzo arranged to return it to the sender but following a review, it decided to close the account and sent Mr A notification of its decision. At the same time, it also loaded a misuse of facility marker at Cifas because it thought the activity on the account suggested Mr A had been complicit in fraud.

Mr A learned of the marker after he did a data subject access request to see what information was held about him. He complained to Monzo to say he'd not done anything to cause this and was a victim himself. He provided additional information for the bank to consider. Monzo considered this but didn't think it had done anything wrong in the steps it had taken.

Dissatisfied, Mr A referred his complaint to us. In doing so, he told our Investigator what had happened:

- When he'd initially opened his account, he was approached by someone who he trusted. This was a close family friend who also worked for his father. He'd asked him for his account details to receive funds from a client.
- He had been hesitant to help at first but agreed after they pleaded with him and explained a friend needed to receive money from a relative.
- He knew he had been naïve to give his account details.
- He'd received funds (around £2,000) from several unknown sources, but he was unaware of the implications.
- He'd converted the money into local currency to send to the recipient and had received a small amount for his personal use. But he'd not foreseen the fraudulent nature of the transactions.

One of our Investigators reviewed matters. She acknowledged what Mr A had said but she didn't think Monzo had treated him unfairly. She noted that the funds had come in from different sources - not just one. She considered Mr A should've contacted Monzo or stopped helping his friend, especially if he didn't know where the money was coming from. But she couldn't see he'd done that. This made her think he was aware he was receiving fraudulent

funds, especially as he went onto to keep some of the money that was coming in.

Mr A disagreed. He said that whilst the situation looked bad, he was an innocent party.

When an agreement couldn't be reached, the case was put forward for a 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.

This includes the screen shots and statements from other accounts.

I'm sorry to disappoint Mr A 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 A 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 A's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that Mr A 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 A's account and he was complicit. And I'm satisfied that it has. I'll explain why by addressing what I consider are the salient points.

I've seen evidence from Monzo that it had received reports saying that funds which entered Mr A's account were because of a fraud. He doesn't dispute this either.

Mr A says that as far as he was aware, his family acquaintance needed his details so that funds could be paid and sent on. He said he understood money would come from a single source and he maintains he didn't know anything else. But I'm not persuaded by his explanation, and I can understand why Monzo wasn't either. Here, the payments (not just those referenced) came in from a number of different sources (names). This ought reasonably to have raised questions and alarm. Yet, Mr A still decided to move money out of the account knowing that to be the case. And he also kept some money as part of the arrangements. Thus, himself benefiting from fraudulent funds.

In the investigation, Mr A said he was nervous when Monzo contacted him – he couldn't reach his friend. He says this led to him providing an incorrect explanation to Monzo. But if Mr A was genuinely unaware the payments were illicit, I'm not sure what he'd be nervous about and why he couldn't be upfront with his explanation (without the need to revert to his friend). Weighing all of this, which includes the account activity, I think the available evidence shows Mr A was aware of more than he disclosed to Monzo and was therefore

complicit.

I'm sorry to hear about the difficulties Mr A is having, and I accept he may not have fully appreciated the situation would result in a loading against him, but based on everything I've seen, I'm satisfied Monzo had enough information to justify recording a misuse of facility at Cifas. It follows that I won't be requiring its removal.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 20 March 2025.

Sarita Taylor
Ombudsman