

## **The complaint**

Mr C complains Monzo Bank Ltd recorded a marker against him, on a national fraud database. He doesn't think it's treated him fairly. To resolve matters, he'd like the entry removed.

## **What happened**

A summary of what happened is below.

Mr C had an account with Monzo. In September 2022, it was credited with £400 from a third-party, through a bank transfer. Soon after, there was an attempt to pay that money to Skrill, but this was stopped because the bank from which the funds had originally come notified Monzo that its customer had been the victim of a scam. So, Monzo had restricted the account.

Following a review, Monzo decided to close the account. At the same time, it also filed a misuse of facility marker at Cifas, as it believed Mr C had been complicit in fraud and it returned £400 from where the money had come.

Mr C found out about the marker when he did a Data Subject Access Request (DSAR) to see what information was held about him and he complained to Monzo that he'd not done anything to cause this. He said the marker was affecting his ability to get a bank account and he didn't recognise recent activity, believing someone else was transacting on his account. Monzo reviewed the information but didn't think it had made a mistake in the steps it had taken.

Dissatisfied, Mr C referred his complaint to us. In doing so, he said what had happened:

- He'd opened his account to save but found he wasn't really using it.
- So, he deleted the app. He wished now that he'd also closed the account.
- He had no idea about any of the activity between 4 and 9 September 2022, which included several payments in and out to Skrill.
- The first he knew of the marker was when someone suggested he do a DSAR as another account he held had been closed without explanation.
- Monzo had never contacted him before acting.
- The marker was having a negative impact on his day-to-day life. A particular concern was that he couldn't get a bank account and mortgage – which was affecting him emotionally. So, he wanted Monzo to remove it.

One of our investigators looked at the case. They acknowledged what Mr C had said and provided but they didn't find his explanation plausible, when looking at the other available evidence. They concluded Monzo had enough evidence to justify recording a misuse of facility at Cifas.

Mr C didn't agree. He said someone else must have accessed his account and he'd reported the matter to Action Fraud. He didn't know who the person was that had transferred £400, and we should investigate.

The investigator highlighted that when reviewing the account activity Mr C said he didn't recognise payments to Skrill, but she said that she could see that payments had also come from him from elsewhere and then paid to Skrill using his details. This was consistent with what had been attempted with the fraudulent payment. And so, she concluded Mr C was most likely aware of the activity he disputed. When the investigator didn't change their mind, the case was put forward for a decision, as the second and final stage of 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.

This includes all the information provided after the investigator's opinion letter.

I'm sorry to disappoint Mr C 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. To file such a marker, it's not required to prove beyond reasonable doubt that Mr C 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 C's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that Mr C was deliberately dishonest in receiving the fraudulent payments 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. 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 C'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.

Monzo didn't contact Mr C at the time of the fraudulent payments, but that's not the end of the matter as they've considered what he's said now but it's decided it was correct to record the marker. And it has submitted information to us to support its decision.

I've seen the report that Monzo received from another bank, saying that funds which entered Mr C's account was because of a fraud. He doesn't dispute this either.

Mr C says he had stopped using the account and so he hadn't been paying any attention to it. And he's adamant that he doesn't know anything about the payment that was identified as fraudulent or indeed the other activity involving Skrill. I've thought about what he's said, but I'm not persuaded this is likely. I say this because, there's nothing to show how a third-party could have acquired control of the account without Mr C's involvement if that's what happened. And he hasn't suggested he'd lost/unintentionally shared his banking credentials.

Monzo submitted to us that from the fraudulent payment, there was an attempt to pay some of the funds over to Skrill using Mr C's details. I can also see from the statements there were other payments in from Mr C's bank account with another provider, which were then sent to Skrill. Looking at the activity, I don't see why an unknown party would take money from another account he had, then pay that into his Monzo account, before moving it to Skrill. This doesn't seem plausible. The nature of the activity shows the opposite, which is Mr C was aware of the payments to Skrill, suggesting he knows more about the payments in and out of his account, including the £400.

I am sympathetic to the effect the marker is having, but ultimately Monzo has enough evidence to show there was a misuse of its facility, with fraudulent funds entering the account and an attempt to withdraw them. Ultimately, I can't see how this could have happened without Mr C's knowledge or involvement. In view of this, and the other evidence, I don't think the bank acted unreasonably in recording the marker or closing the account (there's provision for that within the account agreement).

I'm sorry this isn't the outcome Mr C was hoping for, but it follows that I'm unable to ask Monzo to delete the marker. This now completes our review of the complaint.

### **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 C to accept or reject my decision before 22 April 2025.

Sarita Taylor  
**Ombudsman**