

## **The complaint**

Mr M complains Monzo Bank Ltd registered a fraud marker at CIFAS and closed his account. He doesn't think it's treated him fairly.

## **What happened**

Mr M held an account with Monzo. On 12 June 2023, his account received a credit for £1,000. Shortly afterwards he transferred £670 and £130 of that money to another external account he held. On 16 June, Mr M paid £300 back into his Monzo account and transferred £500 from that to a third party (H).

On 4 July, the £1,000 payment into the account was identified as fraudulent. The bank from which the funds had come told Monzo their customer had been the victim of a scam. Monzo blocked the account and contacted Mr M about this. It asked for information on what the payment was for and why he'd received it. Mr M said, he'd lent £1,000 to a friend, and this was the friend paying him back. Monzo requested supporting evidence, but Mr M said he had none because the person paying him did the transaction in front of him.

Monzo told Mr M that following a review it had decided to close his account.

Mr M later discovered Monzo had also placed a 'misuse of facility' marker against him with CIFAS, which had led to other accounts being suspended and was preventing him from opening a new account. He said he'd since gathered some supporting evidence. This included a hand-written letter from a friend, Y. Y stated, Mr M had needed money and had asked him for £1,000. Y said he didn't have this amount, so asked another friend (S) to send it to Mr M on his behalf. Y provided a screen shot of the payment to Mr M from S.

Monzo reviewed the matter, but it didn't think it had done anything wrong. It said, it had placed the marker in line with its internal policies and wouldn't remove it. Unhappy with this, Mr M referred his complaint to us.

An investigator considered the complaint, she asked Mr M for information. In summary he said:

- He needed money and had asked Y to lend him £500.
- Y had got his friend to send him the funds as he couldn't.
- He didn't know the funds were fraudulent at the time and now believed Y had used him.

Having considered the complaint, the investigator was satisfied Monzo was entitled to record the marker because it had received a report of fraud from another bank. And looking at the available evidence, the investigator thought Mr M was more likely than not complicit in receiving fraudulent funds. She didn't think Monzo's decision to apply the marker and close the account was unfair.

Mr M didn't accept the investigator's conclusions and asked for an ombudsman to review his complaint. In doing so, he said:

- He didn't know anything about what was going on in the background.
- Y had used other people.
- This was having a detrimental effect on his mental health and impacting him day-to-day.

### **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 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.

Mr M says he didn't know anything about fraudulent funds crediting his account. He says he genuinely believed this was a friend helping him out. 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 third-party bank saying that funds which entered Mr M's account were as a result of a fraud and scam. Mr M doesn't now dispute this – but he says he had no knowledge of the fraud at the time.

Mr M told Monzo that he needed a loan, but he also told it early on that the £1,000 was a repayment of a loan he'd given a friend. If this was money lent to him, then I'm not sure why Mr M wouldn't have volunteered this information at the outset, instead of saying something different to the bank, when asked about the payment. Mr M says he waited for Y to return and was guided by him. But he hasn't offered a persuasive explanation as to why he needed to do this, if this was a friend helping a friend.

Mr M also said that he needed a loan of £500 at the time to pay bills. But in the letter from Y, Y said Mr M asked for £1,000, which matched the amount of the payment in. Again, if Mr M genuinely thought this was a loan, then it doesn't explain why having only requested £500, he immediately transferred £800 to an external account belonging to him, particularly when he's latterly said that he managed to deal with bills and no longer needed the funds. I note Mr M has referred to payments he then made to H. But I don't consider these have a bearing on what I have said above about the transactions on 12 June or what he said to Monzo. Weighing all of this up, I'm afraid I don't find what Mr M has said about what happened or the text messages persuasive in supporting his account of events.

Based on what I've seen, the available evidence suggests it's more likely than not Mr M was complicit in receiving the fraudulent payment in his account. In the circumstances, I'm satisfied Monzo had reasonable grounds for loading the marker. So, I don't find Monzo treated him unfairly. I also find Monzo closed Mr M's account in line with its terms and conditions given the account activity and level of his awareness. Therefore, I conclude there was no error here either.

In closing, I'm sorry to hear about the impact this situation has had and continues to have on Mr M. I accept he may not have fully understood the consequences on him, but I hope he'll understand why I won't be requiring Monzo to delete the loading or re-open the account given all that I have concluded.

### **My final decision**

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 M to accept or reject my decision before 27 March 2024.

Sarita Taylor  
**Ombudsman**