

The complaint

Mr G complains that Monzo Bank Ltd has registered a marker about him at CIFAS, the national fraud database.

What happened

Mr G says that the marker is affecting his ability to get a bank account and apply for student finance. He hasn't knowingly received any fraudulent money into his account.

Monzo Bank said it wouldn't be removing the marker. It has asked Mr G to show he was entitled to a credit of £475 that had been received into his account in September 2021. He wasn't able to do so, and this money had been reported as being fraudulently obtained.

Our investigator issued a view upholding his complaint after Mr G had submitted information about the payment. He says he was selling items online. He provided a screenshot that he said was a chat with the buyer on 26 September 2021. He had sold trainers for £475 and sent £300 to a friend who had supplied them and £175 to another bank account. He didn't know that the money had been fraudulently obtained. Mr G had sent in information about other sales with postage receipts.

Monzo Bank didn't agree to remove the marker. It said that the last receipt provided was from June 2021. The receipts seemed to involve the sending of large letters or small parcels with a value up to £50 and not similar to the trainers he says he sold here. All the other credits to his account seemed to come from the friend that had received part of the proceeds. And the screenshot could have been forged and it otherwise seemed 'odd' to take a picture of the online chat that day.

My provisional decision

I issued a provisional decision on 30 August 2023, and I set out below what I said

I needed to consider whether the report to CIFAS was made fairly. On this point, Monzo Bank needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted. 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 the consumer'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. This can include allowing someone else to use their account in order to receive an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

I'd taken into account guidance from CIFAS about cases where someone receives fraudulent payments into their account like this – acting as a so called 'money mule'. And

that relevant factors in deciding whether Mr G was deliberately complicit in what happened include whether he knew or ought to have known that the money wasn't legitimate, whether he may have benefitted from the money by keeping part and whether he has provided generic or inconsistent explanations.

I could see that Mr G's bank account was opened in April 2021. He didn't use it until 18 September 2021. And all the other credits seemed to come from him or the friend he's referred to. The payment of £475 was received on 26 September 2021 at about 18:00. The money was moved on with £300 to the friend and £175 to Mr G's account at a different financial business.

I wasn't in a position to verify that the screenshot Mr G has now provided is genuine. If it was his practice to take such screenshots then I was unclear why he wouldn't have provided this earlier when he was explaining to Monzo Bank what he says happened and was asked for any evidence. If he didn't tend to take such screenshots then I'd also be unclear why he did so then. I noted that the person he is chatting with seems to have seen the trainers in a picture, asks for a picture and that the same picture is sent back to them. I wasn't clear where this item was then advertised. There is no information about any other sales or items around that time. Mr G hasn't provided any proof that he posted this item. It seemed from the other information he has provided that he may have been selling smaller value items earlier in the year. I didn't have anything to show how such money was received and if as he says happened here it was shared with a friend.

I was satisfied that this money was reported as being fraudulently obtained. I needed to decide if Mr G reasonably knew it was fraudulent. I noted his age of 16 at the time and that he says he had an unsophisticated business. But I wasn't persuaded on balance that he wasn't a witting participant in what happened in light of all the evidence. And I said I'd find him equally responsible for what happened if for example he'd allowed someone else to use his bank account in this way.

Monzo Bank says that it applied the CIFAS marker because Mr G received fraudulent funds into his account. So, I'd looked at whether it was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mr G's account of events and the evidence he has provided, I was satisfied that Monzo Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I'd taken into account the following reasons:

- Mr G received fraudulent funds into his account and didn't report this to Monzo Bank at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Monzo Bank had grounds to believe that Mr G had used fraudulently obtained funds based on the evidence it had.

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 didn't receive any more comments or evidence from either Monzo Bank or Mr G. So, I see no reason to depart from my provisional findings on the complaint.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 24 October 2023.

Michael Crewe
Ombudsman