

The complaint

Mr B is unhappy that Monzo Bank Ltd applied a Cifas marker against his name. He wants the marker removed.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

Mr B received two payments into his account, for £146.55 and £132, on 15 July and 2 August 2023 respectively. On 28 July 2023, Monzo were notified by the sender of the £146.55 payment, who was also a customer of theirs, that the payment was fraudulent. So, Monzo placed a block on Mr B's account before later closing it and applying a 'misuse of facility' marker with Cifas.

Mr B tried opening an account with another provider but his application was rejected. Mr B contacted Monzo as he wanted the marker removed. Mr B explained that someone he knew asked him whether they could transfer money into his bank account because his apps weren't working. And for doing this, Mr B could keep £40 from each transaction himself. Due to his naivety, Mr B didn't think there was anything suspicious. He said this could affect his career and he needed it sorted and provided evidence of his conversation with the person who conducted fraud through his account.

Monzo didn't uphold Mr B's complaint. They apologised for the delay in responding but, after a second review of the Cifas loading, they'd made the decision to keep it in place as they'd correctly followed their internal procedure.

Dissatisfied with Monzo's response, Mr B referred his complaint to the Financial Ombudsman. Our Investigator thought Monzo had unfairly applied the Cifas marker. She explained that Mr B would've been unaware that he was being used as a money mule to conduct fraudulent activity on his account. This was because Mr B had shown the Snapchat messages from this friend that supported his version of events and, given Mr B was 17 at the time, she noted that young people like him are often susceptible to being victims of money muling. And here, she thought Mr B had placed his trust in a friend that had tricked him and hadn't purposely carried out fraudulent activity himself.

Our Investigator thought Monzo had acted reasonably by closing Mr B's account, as the terms and conditions allow them to do so if they suspect criminal activity. But it seemed Monzo hadn't spoken with Mr B before applying the Cifas marker. And as she thought the Cifas marker shouldn't have been applied, she recommended Monzo remove it.

Furthermore, our Investigator recommended Monzo pay £250 compensation to recognise the distress caused by Mr B having to arrange another account as well as Monzo's poor handling of the situation – which included several months whereby Mr B had to keep contacting them for an update.

Mr B accepted our Investigator's findings.

Monzo did not and, in short, they added:

- Mr B has pled innocence, but he was clearly used as a mule to receive the proceeds

of fraud. And based on his testimony and the Snapchat messages, Mr B didn't once question the funds sent into his account nor being allowed to keep some of the funds. It is unreasonable to assume Mr B wouldn't have suspected the funds to be from illicit proceeds – given he has benefited by keeping some of the funds in exchange for layering the money.

- As Mr B willingly kept and used the proceeds of crime, they shouldn't be removing the Cifas loading as there's been no evidence of his innocence.
- Although the Investigator says "he hasn't purposely misused his account to commit fraud", Mr B didn't once question the origin of the funds but layered them without hesitation. And so, Mr B has assisted in committing fraud in this case.
- They believe they've found the person the funds were forwarded on to – who is of a similar age to Mr B and lives in the same area. So, they don't doubt this person is Mr B's friend. Some of the reported funds also exited the account via ATM before later being deposited back in cash, which is a classic sign of layering. And so, they consider it difficult to disprove they knew each other in person and that Mr B should've known he was receiving fraudulent funds and questioned his friend.
- There was also a customer involved and due to further fraudulent funds being received, it appears there was some kind of fraud ring between the three parties. And so, Mr B should definitely have questioned the origin of funds.
- Although the Investigator says "Mr B was oblivious to the situation due to being young and financially vulnerable", this isn't an excuse for removing a cifas marker for someone that has participated in fraud. Mr B did nothing to protect himself from receiving fraudulent funds and moving them on.

Our Investigator considered what Monzo said but her position remained the same – that being Mr B had been the victim of a money mule scam and it would be unfair for the Cifas marker to be applied against him. She added:

- The friend was known to Mr B through his ex-girlfriend and so they had met on occasions before. But there wasn't any reason for Mr B to suspect the friend was involved in criminal activity. And just because they're of similar ages and live in the same area, it doesn't mean they were close friends or that Mr B knew what this friend was up to.
- Mr B was 17 at the time and hadn't heard of money muling. And it is known that young people are more susceptible to this type of crime due to not being financially savvy.
- There wasn't any prior concerns or fraudulent activity on Mr B's account before this situation occurred.
- It's not disputed Mr B transferred the funds himself. And keeping some of the money transferred into his account doesn't mean he was necessarily guilty of such a crime. He was simply offering assistance to someone he knew, that he had no reason to mistrust and was offered £40 for each transaction for doing so. Mr B had no knowledge of fraud and scams or criminal activities, but he was manipulated into the transferring of the funds.
- There's no evidence to suggest Mr B was part of a criminal gang or would've known the background to the friend's personal financial affairs. But if he was involved, she would've expected to see the messages between the two parties to have been more personal and to have discussed the money being transferred into the account – showing an intent to defraud the sender of the money, which isn't the case here.

Monzo asked for the matter to be referred to an Ombudsman. And so, the complaint has been passed 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.

Having done so, I've come to the same outcome as our Investigator and for similar reasons. I'll explain why.

For the Cifas marker to have been applied fairly, Monzo needs to have more than a suspicion or concern. They must show they had reasonable grounds to believe that fraud or financial crime had been committed or attempted. And the evidence must be clear, relevant and rigorous.

Having considered the evidence carefully, I'm satisfied Monzo has been able to demonstrate they've met the first of the two standards I've listed above. Monzo has shown they received a report from one of their customers showing the £146.55 transaction was reported as fraudulent – due to goods paid for not being received. This clearly meets the bar that there are reasonable grounds to believe that a fraud or financial crime has been committed. So, I've gone on to consider if Monzo has been able to meet the second of the above two standards – that being whether the evidence is clear, relevant and rigorous.

Cifas published a best practice guide in March 2020 on how members should handle money mules in the National Fraud Database. And within this guidance, it says:

*“You **must** have evidence to show that the consumer was aware that the payment they were receiving was, or might be from an illegitimate source. You need to consider any evidence supplied by the consumer and take account of the wider circumstances. In particular, you should consider investigate whether the consumer was the victim of a scam and has been duped into unwittingly laundering money.*

...

Given that consumers can act as a Money Mule unwittingly in some circumstances, it is required that members provide consumers the opportunity to explain the conduct before filing to the National Fraud Database.”

It seems that Monzo didn't give Mr B the opportunity to explain the transactions before they applied the 'misuse of facility' marker with Cifas. But they only considered Mr B's testimony and supporting evidence when he contacted them and complained about the marker being applied. At this point, Monzo's position didn't change and they decided to keep the marker in place.

I've given careful consideration to what Mr B has told us and the evidence he's provided to support his position. And I've found his testimony consistent from when he first reported it to Monzo and since he's brought it to the Financial Ombudsman. The Snapchat messages Mr B has provided, in my view, support his version of events in which he says he didn't know the funds he received came from an illegitimate source. This is because the messages show that this friend was asking for help due to smashing their phone with the 'apps' on it. Although it's unclear what apps the friend was referring to, if Mr B had been aware of the true source of the funds then I would've expected the conversation to have been different – with specific reference to the funds originating from the illegitimate activity.

It's also known that young consumers are often more vulnerable to money muling – as they're more likely to fail to understand the importance of not allowing others to use their account, grasp the consequences of their actions or believe what they're doing has an illegitimate purpose. And that seems relevant here as Mr B has admitted he was naïve and

didn't question where the funds came from but did it without thinking it had anything to do with fraud.

Given I find Mr B's testimony credible, while he may have benefited from what happened – as he retained some of the funds – I'm not persuaded this is enough to conclude Mr B knew the funds came from an illegitimate source. Instead, I think Mr B believed his friend and was trying to assist them at a time of difficulty – while also earning some easy money. I therefore consider Mr B was acting as a money mule unwittingly.

I'd also note that while Monzo has said the funds exited Mr B's account via an ATM before later being deposited back in cash, his account statements don't in fact show this. But rather, it shows most of the funds were transferred to the friend, with the rest being used for normal account usage. I'm therefore not persuaded Mr B used his account in such a way that, as Monzo refers to, shows common signs of layering.

Although it isn't disputed Mr B processed the transactions himself, thereby participating in what seems to be the movement of fraudulent funds, this itself isn't enough for a Cifas marker to be applied. But rather, and as per above, it needs to be shown that Mr B was aware that the payment(s) they received was, or might be, from an illegitimate source. And for the above reasons, I'm not persuaded that's the case here. It follows that I think Monzo should remove the Cifas marker.

On a final note, I've also considered whether compensation is warranted for the trouble and upset this matter has caused Mr B. And I think £250 is a fair amount to recognise the inconvenience Mr B experienced having to chase Monzo for several months for a response, as well as the impact of having the marker applied – which includes the difficulty he experienced in trying to open another account.

My final decision

My final decision is that I uphold this complaint. I direct Monzo Bank Ltd to:

- Remove the Cifas marker applied against Mr B.
- Pay £250 compensation to Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 August 2024.

Daniel O'Dell
Ombudsman