

## Complaint

Miss J is unhappy that Monzo Bank Ltd (“Monzo”) closed her account and registered a fraud prevention marker against her.

## Background

In April 2021, Miss J’s account received a payment of £816.80. £600 of these funds were immediately transferred to a third party and the remainder was transferred to another of Miss J’s accounts with a different bank. Monzo subsequently received a notification from the bank responsible for sending the payment to Miss J’s account stating the payee of the funds had reported being a victim of fraud. Monzo reviewed Miss J’s account and as a result of its investigation, it decided to close her account and record a fraud prevention marker.

After learning of the fraud prevention marker, Miss J complained that this was applied unfairly. Monzo looked at Miss J’s complaint and didn’t uphold it. As Miss J remained dissatisfied she referred the matter to our service.

One of our adjudicators looked into Miss J’s concerns. She didn’t think that Monzo had done anything wrong or treated Miss J unfairly and so didn’t recommend the complaint be upheld. Miss J disagreed and so the complaint was passed to an ombudsman for a final decision.

## My findings

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 isn’t required to prove beyond reasonable doubt that Miss J is guilty of fraud or a 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 such that the member could confidently report the conduct of the subject to the police.”*

What this means in practice is that Monzo must first be able to show that fraudulent funds entered Miss J’s account, whether they were retained or merely passed through. Secondly, Monzo also needs to have strong evidence to show that Miss J was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include Miss J allowing someone else to use her 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 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 in order to understand their level of knowledge and intention.

In order to determine Miss J's complaint, I need to decide whether I think Monzo had enough evidence to show fraudulent funds entered Miss J's account and that her actions suggest she was complicit in this. And having considered everything, I find that Monzo did have enough to record a fraud prevention marker here. I'd like to explain why in a little more detail.

There doesn't appear to be any dispute that the funds in question, which entered Miss J's account in April 2021, did so as a result of fraudulent activity. So the only matter which remains in dispute here is whether Miss J was complicit in allowing her account to receive the illegitimate payment.

Miss J says she didn't know about the activity. She said her boyfriend didn't have an account and needed to receive funds he was owed so that he could send them on to his mother. And as Miss J had this account which she wasn't using, as she only opened it because she heard Monzo was a good bank and she wanted to improve her credit rating, Miss J allowed her boyfriend to use it. When our adjudicator asked why Miss J's boyfriend didn't simply arrange for the funds to be sent to his mother directly, she said she didn't know.

I've thought about what Miss J has said. But I'm afraid that Miss J's version of events simply isn't plausible. I say this because a reasonable proportion of the funds went to another of her own accounts. I know that Miss J says that she was also owed money by a friend but this wasn't mentioned before and it simply doesn't add up with the sequence of events here, or explains why an unused account would have all the funds transferred out so rapidly after they were received too. Furthermore, I also think that Miss J ought to have queried why the payment in question couldn't simply have gone to her boyfriend's mother in the first place too.

So overall and having considered everything, I'm satisfied that Monzo did have sufficient evidence to show that fraudulent funds entered Miss J's account. And it was also reasonably entitled to conclude that it was more likely than not that Miss J was complicit in this. As this is the case, I don't think that it was unfair for Monzo to record a fraud prevention marker in the circumstances that it did.

I now turn to the closure of Miss J's account. The terms and conditions of Miss J's account permitted Monzo to close it without notice where it believes a customer has "*broken the law or attempted to break the law*". I've already explained why I think Monzo was reasonably entitled to conclude that Miss J's account had been used for fraudulent purposes when explaining why it didn't act unfairly in recording the fraud prevention marker.

As this is the case, I'm also satisfied that, for much the same reasons, the terms and conditions permitted Monzo to close Miss J's account in the way that it did. And I'm therefore not upholding Miss J's complaint on this basis either.

I appreciate this will be very disappointing for Miss J. But even taking into account the impact Miss J says the marker is having on her, I can't ignore the fact that the available evidence appears to indicate that it's more likely than not she was complicit in fraudulent activity. So I hope that Miss J will understand the reasons for my decision and that she'll at least feel her concerns have been listened to. Furthermore, Miss J might find that she's able to open an account with another bank as long as she applies for a Basic Bank Account, rather than a full Current Account or any such equivalent.

**My final decision**

For the reasons I've explained, I'm not upholding Miss J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 2 November 2022.

Jeshen Narayanan  
**Ombudsman**