

## Complaint

Miss B is unhappy that Monzo Bank Ltd (“Monzo”) registered a fraud prevention marker against her.

## Background

In December 2021 and January 2022, Miss B’s account received payments of two payments of £200 and one for £100. Monzo subsequently received notifications from the third-party banks responsible for sending the payments to Miss B’s account stating the payees of the funds had reported being victims of fraud. Monzo reviewed Miss B’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 B complained that this was applied unfairly. Monzo looked at Miss B’s complaint and didn’t uphold it. As Miss B remained dissatisfied she referred the matter to our service.

One of our adjudicators looked into Miss B’s concerns. She didn’t think that Monzo had done anything wrong or treated Miss B unfairly and so didn’t recommend the complaint be upheld.

Miss B 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.

Having carefully considered everything, I’ve decided not to uphold Miss B’s complaint. I’ll explain why in a little more detail.

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 B 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 B’s account, whether they were retained or merely passed through. Secondly, Monzo also needs to have strong evidence to show that Miss B was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include Miss B 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 B's complaint, I need to decide whether I think Monzo had enough evidence to show fraudulent funds entered Miss B'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 B's account, did so as a result of fraudulent activity. So the only matter which remains in dispute here is whether Miss B was complicit in allowing her account to receive the illegitimate payment.

Miss B says she doesn't know anything about the activity that took place on her account. She said that she opened this account because she saw an advert for it on social media. But she never used it or put any money into it. Miss B has also said that she's unable to find the card for this account either.

I've thought about what Miss B has said. But even if Miss B did lose her card, this simply doesn't explain how an opportunistic fraudster who just managed to find it would have been able to access Miss B's mobile banking app to make the account transfers which took place, or Miss B's Personal Identification Number ("PIN") to make the cash machine withdrawals. And without a plausible explanation of how someone would have been able to get hold of quite an extensive amount of confidential information, I can't reasonably conclude that this activity took place without Miss B's cooperation.

So overall and having considered everything, I'm satisfied that Monzo did have sufficient evidence to show that fraudulent funds entered Miss B's account. And given Miss B's inability to provide a plausible explanation on how someone was able to obtain her security credentials, Monzo was also reasonably entitled to conclude that it was more likely than not that Miss B 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. And I'm not upholding Miss B's complaint.

I appreciate this will be very disappointing for Miss B. But even taking into account the impact Miss B 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 B will understand the reasons for my decision and that she'll at least feel her concerns have been listened to. Furthermore, Miss B 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 B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 10 March 2023.

Jeshen Narayanan  
**Ombudsman**