

## **The complaint**

Miss O complains Monzo Bank Ltd (“Monzo”) unfairly applied an adverse fraud marker against her.

## **What happened**

The details of this complaint are well known by both parties, so I won’t repeat them again here. Instead, I’ll focus on giving my reasons for my decision.

## **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 decided not to uphold this complaint. I’ll explain why.

Monzo say the marker it filed with CIFAS is intended to record there’s been a ‘misuse of facility’ – relating to using the account to receive fraudulent funds. In order to file such a marker, Monzo is not required to prove beyond reasonable doubt Miss O is guilty of a fraud or financial crime, but it must show there are grounds for more than mere suspicion or concern.

CIFAS says:

- *That there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted*
- *That the evidence must be clear, relevant, and rigorous*

What this means in practice is that a financial business must first be able to show fraudulent funds have entered Miss O’s account, whether they are retained or pass through the account. Having looked at the information Monzo has given me; I’m satisfied fraudulent funds entered Miss O’s account.

Secondly, Monzo will need to have strong evidence to show the consumer was deliberately dishonest in receiving the fraudulent payments and knew it was, or might be, an illegitimate payment.

A marker shouldn’t be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity. So, I need to consider whether Monzo has enough evidence to meet the standard of proof and load a marker for a misuse of facility with CIFAS.

Monzo have given me evidence which I’m satisfied shows fraudulent funds were paid into Miss O’s account. I note also they were dispersed in their totality in one payment from Miss O’s account.

After the account was blocked, Miss O said she knew nothing about the receipt of these

payments. But the information I've been presented with shows the transfer out was done from the sole trusted device on her account. And, importantly, Miss O checked whether this payment had successfully been processed and transferred out from her account on a prior call. So I think it's most likely she knew about the funds and their onward movement.

So after carefully weighing everything up, and as there isn't any compelling evidence to show Miss O wasn't witting, I'm satisfied the CIFAS marker has been applied fairly. This means I won't be asking Monzo to remove it.

### **My final decision**

For the reasons above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 14 October 2024.

Ketan Nagla  
**Ombudsman**