DRN-2926343

Financial Ombudsman Service

The complaint

Miss H complains that Monzo Bank Ltd won't refund money she lost when she fell victim to a scam.

What happened

In March 2020 Miss H fell victim to a scam, while looking for a rental property.
The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows;

On returning from holiday, in March 2020, Miss H had received a 'notice to quit' letter from her landlord, so she needed to find somewhere else to live. Miss H has explained that it was a very stressful time, with the country about to go into a lockdown and estate agents, in anticipation of this, starting to do things differently with regards to viewings.

Before the lockdown was introduced, Miss H was able to see a number of properties in person, but they didn't meet the criteria she was looking for. Once the lockdown had started, where potential buyers/tenants were no longer allowed to view properties in person, estate agents had introduced video tours.

Through an online search, Miss H came across a property she was interested in. The property met the criteria Miss H was looking for and was available straight away. Miss H was sent a video tour of the property and she liked it. Miss H has said that she knew where the property was, as it was close to where she already lived and was aware that they were new build properties.

Miss H was provided with direct contact information for the landlord. She's explained that in communications with her, he seemed liked a nice man. He told her he was a doctor, who resided in Switzerland – he also told her that the property had won an award previously following guest reviews, where he had previously rented the property on a short-term basis. Miss H has said she checked the landlord's credentials on line, and things matched up.

Miss H and the landlord exchanged emails, which discussed details of what was included within the rental and the cost. She was also asked to provide references to the landlord, which she did. Happy with the property, Miss H agreed to proceed and to secure the property needed to make a payment for £2,400 – this was to cover one months rent and a security deposit.

The landlord told Miss H she would receive a booking information, through a well-known online travel agency that deals with, among other things, lodging reservations. It was further explained that, after she had moved in, her deposit would be put in a Deposit Protection Scheme, as required by law. Miss H was told that on receipt of payment, she would be able to collect the keys and after viewing the property, if she liked it, she could sign the tenancy agreement. The landlord also said that, if she didn't like it, she would receive a refund on the same day.

Believing everything to be genuine Miss H went ahead and made a payment for £2,400 to the account details provided. The payment went to an international bank.

A few days after making the payment Miss H became suspicious, as she hadn't heard anything and stopped receiving responses to her messages and calls.

Miss H complained to Monzo, she said it didn't alert her that this was a potential scam and so she didn't have any concerns about who she was making the payment to. Monzo looked into Miss H's complaint and issued its final response on 7 April 2020 not upholding the complaint. It said this was because the payment Miss H had made was international. It also didn't agree that there were any issues with the service it had provided.

Miss H then brought her complaint to our service and one of our investigators looked into things. Her first thoughts were that Monzo should uphold the complaint. She said this because she thought Monzo should have intervened before allowing the payment to be made. And, if it had done so and made further enquiries about the purpose of the payment, it would have become apparent that Miss H may have been at risk of financial harm. Our investigator initially thought Monzo should refund Miss H the money she lost.

Monzo disagreed with our investigators view and so she looked into things again. On reflection, our investigator didn't uphold the complaint. She maintained that she thought Monzo ought to have identified the payment as unusual or suspicious and it should have contacted Miss H before letting the money go. But our investigator didn't think this would have made a difference and she thought Miss H would still have gone ahead and made the payment. She said this because she didn't think the answers Miss H is likely to have given, would have caused Monzo concern that Miss H may have been at risk of financial harm. Our investigator thought Monzo could've initiated the recovery of the funds sooner than it did, but she didn't think this would have made a difference.

Miss H didn't accept our investigator's view. In summary, she thinks Monzo should have foreseen the fraud and had it done so she would not have lost all that she did.

As agreement couldn't be reached, the complaint has now been passed to me for a 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I'm sorry to hear of what's happened to Miss H, and I can understand entirely why she feels so strongly that this money should be returned to her. But having thought very carefully about Monzo's actions, I think it did act fairly and reasonably in allowing the transfer to leave

Miss H's account. I also don't think it has missed an opportunity to recover the money Miss H has sadly lost. I'll explain why.

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story and taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Monzo should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.

- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

This means that, particularly with the increase of sophisticated fraud and scams in recent years, there are circumstances where a bank should fairly and reasonably take additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm.

So In this case, I need to decide whether Monzo acted fairly and reasonably in its dealings with Miss H, when she made the transfer and when she reported the fraud, or whether it should have done more than it did.

Miss H has accepted that she authorised the payment. Because of this, Monzo had an obligation to follow Miss H's instructions. But there are some situations in which it should reasonably have had a closer look at the circumstances surrounding the transfers - as I've explained, I consider that as a matter of good practice Monzo should've been on the lookout for unusual and out of character transactions.

I've first thought about whether I think Monzo should have intervened. Monzo has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud. But having reviewed the payment Miss H made, I'm persuaded that it wasn't typical of how Miss H usually ran her account and so, I think it ought to have caused Monzo to be concerned that Miss H might have been at risk of financial harm.

Having looked through Miss H's bank statements, for the six months leading up to the scam, the payment Miss H made to the fraudster was considerably higher than any previous payment she had made. Alongside this, it was an international payment to a new payee. I think there was enough going on that Monzo ought to have been concerned. With this I think it should have taken steps to conduct additional checks before processing the payment, as I consider the activity on the account represented a possibility that Miss H may have been at risk of financial harm.

Where I find Monzo ought to have intervened, this in itself isn't enough for me to say that Monzo should refund the money Miss H lost. I also need to be persuaded that its intervention would have made a difference and prevented the payment from being made. I have to base my findings on the balance of probability – that is, what I think is more likely to have happened, taking into account what I know.

Had Monzo intervened at this point, I'd have expected it to ask Miss H some questions about the payment. Miss H hadn't been coached by the fraudster about what to say if she spoke with her bank, which can often be the case with scams, so I think she would have spoken freely. I think it likely Miss H would have told Monzo that the payment was the first months rent/deposit for a property.

Knowing the payment was for a property and given the payment was not typical of how Miss H usually ran her account, I think Monzo ought reasonably to have asked further questions about the payment. In these particular circumstances, I've thought about the sorts of additional questions Monzo could've asked. It could have, for example, asked questions such as, but not limited to, how did Miss H find the property, had she viewed it, had she signed an agreement, why was she making an international payment for a UK property and what assurances had she been given about her deposit.

But I'm persuaded, on balance, the answers Miss H is more likely than not to have given would have been sufficient to reassure Monzo that Miss H wasn't at risk of financial harm. From the information I've seen and considering the circumstances of what was happening, I think Miss H would have reasonably been able to explain that, due to circumstances with the pandemic she'd not been able to view the property in person, but had received a video tour, was aware where the property was and was familiar with the area.

As well as this, Miss H had also been in ongoing communication with the landlord directly and, at this point, wouldn't have been aware she was dealing with a fraudster. Miss H has explained that the landlord had been able to provide her with a lot of 'legitimate' paperwork, guarantee's and agreements and overall had seemed a 'nice man'. Miss H had also carried out her own research regarding the landlord and what she found was consistent with the information she had been provided, in that they were a practising doctor. All of which, I'm persuaded, would have further reassured her that the person she was dealing and the payment she was intending to make were legitimate.

Miss H has said she didn't know she was making an international payment. But from the evidence I've seen I'm persuaded its more likely than not she would have been aware of this. I say this because, from the information I've seen about how an international payment is made, its likely Miss H would have been required to select 'international transfer' to proceed with her online payment and provide details, such as an IBAN/Swift number. I'm persuaded she would also have been able to see the currency the payment was being made in. I'm also mindful that Miss H was under the impression that the landlord resided abroad, so I think it more likely than not she would have considered it plausible that they would hold a bank account outside of the UK.

Overall, I'm persuaded its more likely than not Miss H would have been able to answer any questions she could potentially have been asked confidently, and with this I don't think Monzo could reasonably have been expected to detect that there may have been a problem.

I've gone on to think about whether Monzo did what it should've done once Miss H reported to it that she was concerned she'd been the victim of a scam. I've looked into the attempts Monzo made to recover the money. In order for me to be able to fairly ask Monzo to refund the money to Miss H, I need to be satisfied that Monzo should have acted sooner in trying to recover the money. And if I don't think it acted soon enough, I need to decide whether it made any difference.

In this case I can see Monzo didn't raise the claim against the receiving bank on the same day Miss H initially reported her concerns, instead it raised the claim a few days later. But from what I've seen the receiving bank only held the money fleetingly, before it was moved on and I can't see that it has been able to recover any of the funds. So, even though Monzo ought to have acted sooner, it didn't make any difference here and it sadly wasn't able to recover the money Miss H had paid. I also haven't seen any persuasive evidence that suggests Monzo caused any unreasonable delays in its dealings with Miss H while it reviewed her claim.

It's very unfortunate Miss H has lost this money in this way, and I understand the whole experience has been deeply upsetting for her and I don't underestimate her strength of feeling. But in the circumstances, I don't think I can fairly or reasonably say Monzo should have done more to prevent Miss H from losing this money. So I don't think it would be fair for me to ask Monzo to refund the loss.

My final decision

My final decision is that I don't uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 22 October 2021.

Stephen Wise
Ombudsman