

The complaint

Mr P complains Monzo Bank Ltd will not refund some disputed transactions.

Monzo says the payments were authorised by Mr P.

What happened

Mr P complained about 104 transactions on his account. A large number of these were made to an online content subscription service which I will call O. They were made over a five-day period between 12th and 17th February 2020. Mr P complained about them on 18th February.

He told Monzo that he still had his card and phone in his possession, but he thinks the transactions were possible because his phone had been hacked. He also confirmed his phone had been lost but had since been returned to him.

Monzo did not uphold his complaint. In its final response to Mr P, dated 25th February 2020, it said it had considered Mr P's activity on his account before, during and after the transactions and had concluded that a third party could not have made these transactions.

It apologised for the delay in dealing with his complaint. It also explained that it intended to close Mr P's account and was going to give him 14 days' notice. The terms and conditions on the account entitled it to close it without notice in some circumstances. Monzo said that was the case here as Mr P had provided false information in relation to this fraud claim. However, it said it was prepared to allow Mr P some time.

Mr P wasn't happy with this response, so he came to this service.

Amongst other things, he told us the following:

- he had been working during the days when the transactions took place;
- his phone and card had been left in his locker and he thinks someone had managed to see his code to access his locker;
- he thought it was unfair of Monzo to close his account – especially as he had been admitted to hospital on the last day of the deadline;
- he had been diagnosed with a number of conditions and this affected the way he dealt with matters. He didn't say how but he said this service had not taken these into account;
- he was in financial difficulties as a result of these transactions
- The website – O – is a website which saves your card details for use on subsequent occasions

Monzo repeated the observations it had already made in its final response. In addition, it told us:

- the spending on website O was similar to previous spending on Mr P's account;
- Mr P had been active on his mobile banking app throughout the relevant time – so it said he would have seen the transactions earlier and would have seen his balance diminish;
- there were genuine transactions made in between the disputed transactions and some of these were similar spending to that with O;
- having advised Mr P to request a new card, once he had activated it, he had registered it on O's website within 11 minutes;
- the closure of Mr P's account was carried out in accordance with the terms and conditions.

Our investigator looked into matters for Mr P – but she didn't think she could ask Monzo to do anymore. The matter was then passed to me for a final 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.

When considering what is fair and reasonable, 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 have been good industry practice at the relevant time.

The investigator wrote a detailed view that sets out in full the facts, the transactions, the relevant regulations and the evidence. Both Mr P and Monzo have read the investigator's view, so I won't repeat every detail here, only those which form the basis of my decision. However, I can assure Mr P that I've read the file, including his comments and evidence.

In short, Monzo is required to refund the amount of an unauthorised transaction. The relevant regulations, to this effect, are the Payment Services Regulations 2017 (the PSRs 2017).

Authorisation is a two-stage test consisting of authentication *and* consent – and I remind myself that it is for Monzo to show that Mr P authorised the payments rather than for Mr P to show that he did not.

Authentication in this case is the use of Mr P's card details – and having seen the evidence provided by Monzo, I am satisfied that the payments were authenticated. However, Monzo also needs to show Mr P consented to the payments.

For the following reasons I think he did consent:

- the transactions took place over a five-day period. I'm afraid Mr P's account as to how someone may have accessed his locker on a daily basis, and then replaced his phone and card without him realising just isn't plausible;
- the evidence shows Mr P was quite active on his banking app throughout the period

of the disputed transactions. Monzo has told us that its app defaults to the balance of the account when it is accessed. I think it's likely, therefore, that Mr P would have seen his money being spent;

- whilst he may not have had a relationship with O *before* these disputed transactions, he clearly had one *after* them. In fact, the evidence suggests he registered his new card details soon after he activated the card;
- the spending on the account is indicative of someone who knew what the balance on the account was it stopped when there were no funds left and started again as soon as Mr P's salary was paid in. Monzo said this was paid in early using a facility on the account and that the request came from Mr P. I think that's likely;
- I think that if a third-party fraudster had had access to Mr P's account, there would have been attempts to use up the funds as quickly as possible. That's not the case here as they spanned a five-day period.

So, I think the evidence suggests it's more likely than not that Mr P authorised these payments.

I've thought about whether Mr P was treated sympathetically once he told us of his diagnosis and I think he was. Both the investigator and I have considered this in making a decision. We did ask Mr P for particulars of how his conditions affected his ability in making this complaint, but we received no details in response. However, I can assure Mr P that I have had them in my mind whilst considering his complaint. I've especially kept them at the forefront on my mind when considering whether Monzo could have done more to protect Mr P's account.

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 Payment Services Regulations and the terms and conditions of the customer's account. However, in exceptional cases, I may ask whether the bank should have identified any unusual or out of character transactions that could involve fraud or financial abuse. There is industry guidance on this in the BSI Code of Practice on 'Protecting Customers from Financial harm as a result of fraud or financial abuse.' This guidance includes persuasive evidence of what banks can do to protect customers, especially vulnerable customers.

So, I've looked at the activity on Mr P's account before these transactions to O and others began and I can't see anything which suggests to me that Monzo ought to have detected an unusual spending pattern. I say this because whilst the number of transactions may have increased, the value of these payments was very similar to Mr P's usual spending habits.

Finally, I've considered the closure of Mr P's account – and I don't think Monzo has been unfair or unreasonable in its actions. The terms and conditions of the account allow for immediate closure in certain circumstances – and I can see that providing false information is one of those.

Based on Monzo's findings that Mr P had authorised these transactions, I think that closing his account was a fair and reasonable response. I'm pleased to see, however, that it allowed some time for him to find an alternative bank.

And I don't think its actions became unfair because Mr P was admitted to hospital on the last days of the deadline because I remind myself that he had had the previous 12 or so days to arrange banking facilities elsewhere.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 26 October 2021.

Shazia Ahmed
Ombudsman