

The complaint

Ms C is unhappy that Monzo Bank Ltd won't refund a transaction she didn't make or authorise when she was the victim of a scam.

What happened

On 30 June 2020 Ms C received an email from a retailer explaining that her payment card information may have been leaked to an unknown third party when she made an order.

On 2 July 2020 Ms C sent a chat message to Monzo and asked what she should do. Monzo blocked her card and ordered a replacement.

On 4 July 2020 Ms C contacted Monzo again because she'd received a text saying there was an unknown attempted login to her account. Monzo replied and said the text message was not genuine. It told Ms C that Monzo would never call to say money isn't safe or that money needs to be moved to a safe account, or to say that a customer needs to take out a loan or overdraft or ask for a PIN. It said that if Ms C received any other messages like this, she should not give any information and signposted her towards a blog with more information about scams.

Later that day, Ms C received a call that she thought was from another bank where she held an account. She was told that her account was at risk. Ms C explains that the call came from the other bank's genuine phone number. The caller told Ms C that they could see there was a link to a Monzo account and explained that someone from Monzo's fraud and security team was on the line too. The caller told Ms C that her money would be safer in her Monzo account whilst the abnormal activity on her other account was investigated. As a result, Ms C transferred £1,000 from her other bank account into her Monzo account.

Unfortunately, Ms C was speaking to fraudsters impersonating both banks. During three phone calls that day, Ms C provided information to the fraudsters that enabled them to access her Monzo account.

At 19:11, a faster payment of £1,020 that Ms C did not know about was made from her Monzo account to a new payee. This emptied Ms C's account.

On 5 July 2020, Ms C contacted Monzo to follow up on the conversations she'd had the previous day. She explains that she'd been called and told that her Monzo account had been hacked and it was going to be investigated further so she wanted to know what was happening. The bank's advisor explained that no one had called her from Monzo. Ms C was confused.

During this call, Ms C discovered that she had been the victim of a scam and had lost money. Monzo took steps to secure Ms C's account.

Ms C reported what had happened to Action Fraud. She asked Monzo for help, explaining that she was a university student that had worked part time to save the money towards her tuition fees.

Monzo investigated and gathered additional information from Ms C. On 12 July 2020, it declined Ms C's claim for a refund. It said Ms C didn't take enough steps to check the legitimacy of the caller. As part of its investigation, it looked at the call history on Ms C's mobile phone and felt the call where Ms C thought she was speaking to Monzo was too short for the caller to have built trust. It also placed weight on the scam education it had very recently provided to Ms C and how she been clearly informed that the bank would never do exactly what the fraudsters did. It said that it would try to contact the receiving bank to see if it could recover any of the funds that had been sent.

On 23 September 2020, Ms C raised a complaint. She said the fraudsters had called from her other bank's legitimate phone number and passed her onto a person she was told was a member of Monzo staff. She explained this person already knew she had reported a data breach to Monzo. She explained that she could not afford to lose the money and urgently needed to pay her tuition.

Monzo issued its final response on 8 October 2020. It accepted that it should have tried to contact the receiving bank as soon as the scam came to light and that there had been delays when communicating with Ms C over Monzo Chat. It paid her £100 to acknowledge the distress and inconvenience that had been caused. Its position regarding the money Ms C had lost to the scam remained unchanged. Ms C referred her complaint to this service.

In its complaint papers, Monzo said it was holding Ms C liable for the scam because it had provided warnings to her before the scam phone calls were received. It did not consider Ms C had done enough to keep her account safe and considered she had been grossly negligent to provide the means for the fraudsters to gain access to her account.

Our Investigator considered the complaint and recommended that it should be upheld. She did not think Ms C had been grossly negligent as she was in a situation where she felt she had to act immediately to protect her funds.

Monzo disagreed. It said the two separate sets of warnings it gave were very specific to what occurred and would have *"stopped this scam in its tracks"*.

It highlighted that it had specifically warned Ms C that Monzo would never call her and tell her that her money wasn't safe and that the information in its blog post told Ms C how to tell if a message or call from Monzo is real. It pointed out that it had specifically told Ms C the most important thing she could do to protect her account was to be wary of phishing texts, emails or calls from people pretending to be Monzo, but she gave a caller all of the information they needed to access her account and make a payment.

It pointed out that Ms C had shared the login email with *"support@monzosecure.com"* despite the bold warnings to never forward the email on. It said that Ms C knew the risks and her actions were well beyond being merely careless. It pointed out that its terms and conditions say the bank won't be able to refund payments if a customer has been very negligent in not keeping their account details safe.

It asked for an Ombudsman to review the complaint afresh, maintaining that Ms C hadn't done enough to keep her account safe.

On 24 March 2022, I issued my provisional decision as my reasons for looking to uphold the complaint expanded on what our Investigator had said. I have reproduced the provisional decision in italics below:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Monzo hasn't disputed that this payment was not authorised by Ms C. In the phone call with the bank where Ms C first discovered that she had been a victim of a scam, her shock and upset is clear to hear. It is accepted that Ms C had no knowledge or awareness that the payment had even been made until that call.

This means that as a starting point, in line with the Payment Service Regulations 2017 (PSRs), Ms C isn't liable for a payment she didn't authorise, unless she failed with gross negligence or intent to comply with the terms of the account or keep her personalised security details safe.

From the circumstances as they have been described, I don't think Ms C failed with intent to comply with her terms and conditions or keep her details safe. She genuinely believed there was a problem with her banking and that she needed to protect her money.

So I've gone on to consider whether Ms C failed with gross negligence. In other words, whether she was significantly careless; whether she acted so far below what a reasonable person would've done; or seriously disregarded an obvious risk.

Establishing gross negligence requires me to consider all the circumstances of what happened. A finding can't be made that Ms C seriously disregarded an obvious risk without exploring why she proceeded.

Ms C has explained that the scam began when she received a call purporting to be from her other bank explaining that there was an abnormal volume of activity. She says the caller rang from the bank's genuine phone number and that they knew that she also had a Monzo account. The caller told her that they were on the phone with Monzo's fraud and security department and were aware that an investigation had been opened there. Ms C recalls that she was told that the banks were working together to prevent fraud through the Open Banking system.

I think the context in which Ms C came to share information is very important. I am persuaded that this was a sophisticated scam. Monzo's own investigation notes agree that it appears to be particularly complex. Against that backdrop, it is not surprising that Ms C has said that she feels confused and scared because she has no idea what happened. Whilst Ms C cannot remember exactly how everything unfolded, from what she has been able to recall, she believed that she was in contact with two legitimate financial institutions that she genuinely holds accounts with. She was told that the banks were working together to protect her money. It appears that the fraudsters were able to spoof the genuine phone numbers of both banks as Ms C has shown that the incoming calls matched both the number on the back of her bank card and the Monzo help number. Number spoofing is a very powerful technique used by fraudsters which quickly establishes trust and confidence.

I can see why Ms C believed who she was talking with. The caller gave accurate information about the contact she'd had with Monzo about the retailer's data breach, even correctly citing the name of the Monzo colleague that had replied to Ms C's chat message. The possibility of fraud had been weighing heavily on Ms C's mind. Given that Ms C had recently spoken to Monzo via its chat about fraud and the possibility that her card details had been compromised, I can see how Ms C believed what she was being told about needing to take steps to protect her money.

I do not consider that Monzo has placed appropriate weight on the environment that the fraudsters had created. I am persuaded that it was not unreasonable for Ms C to trust the information she was being told, especially considering the difficulty she faced thinking clearly under the kind of worry and emotional pressure the scam placed her under. She genuinely

thought the money she had saved for her tuition fees was at risk and that she needed to take action to keep it safe. She thought she was following the instructions of organisations that she knew and trusted. The prevalence of impersonation scams strongly suggests that lots of other people would have done exactly the same thing as Ms C if they had been in her shoes.

Monzo has highlighted the security features that Ms C shared which enabled the fraudsters to access her account and make the payment, including Ms C's PIN and the 'magic link' email that was forwarded on to the fraudsters which gave them access to login from another device. Whilst I recognise Monzo's concerns, having considered everything, I am not persuaded that the available evidence is enough to show that Ms C seriously disregarded an obvious risk.

Ms C told Monzo that her email account had been hacked and that she found the log in email after the scam was uncovered in her deleted items. It is unclear whether Ms C forwarded the email that ultimately gave access to the fraudsters herself or whether the fraudsters had control of Ms C's inbox. Ms C says that she sent one email to who she thought were the fraud and security team because she could not access her banking app but explains that there were lots of emails because she tried to login many times. She does not know how the fraudsters could have accessed her email account and says that she does not remember seeing a message on the email telling her not to share it with anyone. All that can be established for certain is that the email was sent to Ms C's genuine email account but I cannot be as sure as I would need to be that Ms C even saw this email at the time, let alone interacted with it.

I'm also mindful that when Ms C shared her PIN code, she did so under the impression that it was to freeze her account. She explains that she did not say the number out loud but keyed it into her phone's keypad. I am persuaded that in the situation the fraudsters had masterfully created, she had no awareness that a fraudster could detect the number sequence from the keypad tones and then use it to move money. I am persuaded that she thought she was taking steps to secure her account. I don't think Ms C's unwitting actions in entering her PIN go so far that they could be considered as significantly careless. Monzo has also highlighted the length of one of the scam calls – it doesn't think someone could be convinced in this time. But I don't think it's so short that it means Ms C must have been significantly careless – indeed, it could also highlight how well the fraudsters persuaded her combined with the urgency she felt to act quickly. I'm also mindful Ms C thought she was interacting with two banks in tandem so looking at this one call in isolation does not give the true picture of all of the relevant circumstances.

I've also thought about the warnings Monzo had previously given to Ms C in the chat. It points out this information was provided to Ms C very close in time to when the scam happened and should have resonated more strongly with her. But the sophistication of the scam and the overall environment created by the fraudsters should also be taken into account as a mitigating factor. I am mindful that a lot of interactions were happening around the same time, some of them genuine and some of them fraudulent. I don't think it was unreasonable for Ms C to have thought further contact from Monzo was closely connected to the genuine concerns she had very recently raised with the bank. I am also mindful that the education provided by the bank required Ms C to read a blog post, so I do not consider it to be as strong and relevant in the moment as the bank does.

In all the circumstances of this individual complaint, I am not currently persuaded that Ms C was significantly careless. She'd been cleverly manipulated into thinking she was doing the right thing to keep her money safe. On this basis, I don't think Ms C's actions fell so far below what a reasonable person would've done that it amounts to gross negligence. So I am currently minded to say that Ms C isn't liable for the transaction and Monzo needs to put things right.

Monzo ought to have refunded this transaction sooner – and that’s added to Ms C’s stress. It is clear from the bank’s investigation notes that Ms C was very worried about whether she would be able to continue with the fourth year of her degree without the money she had saved to go towards her tuition fees. Whilst I recognise that a lot of that distress is directly attributable to the actions of the fraudsters, I don’t think the £100 Monzo has already paid goes far enough, especially considering its communication with her was not as quick as it should have been at an already difficult time, and there was a delay when trying to recover funds. So I am also minded to award a further £100 to reflect her non-financial losses.

Responses to my provisional decision

Ms C’s representative did not respond to my provisional decision by the deadline given so I have assumed that she has nothing further to add.

Monzo disagreed with my position. It reiterated it had described the exact scam scenario to Ms C just hours before it happened and warned her to hang up this type of call. It considered that she was clearly aware of the risk and so cannot agree that she didn’t seriously disregard an obvious risk. It didn’t think the situation or the scam complexity made any sense and pointed out that it had told Ms C this was likely to happen. It said it was not fair for the bank to be held liable for this scam when Ms C *“allowed themselves to be wound up to the point of doing exactly what they were told by the scammer, and failing to take the very specific action and very specific warnings we’d provided them.”*

The bank felt it was being held liable regardless of whether it provides scam education to its customers or not.

As the deadline I gave for responses has now passed, I shall now reconsider the complaint.

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.

I’ve taken account of all that was on file before my provisional decision as well as the arguments put forwards since.

Having done so, I remain of the view that Ms C did not fail with gross negligence by seriously disregarding an obvious risk.

Monzo has pointed out that this situation and scam complexity does not make any sense. It can be easy, in the cold light of day, to critically reflect on exactly how events could have happened. It is likely that Ms C has also replayed the events of that day over and over again in her mind given how significant the loss of the money has been to her.

Monzo’s stance is essentially that Ms C should not have fallen for this scam. It is questioning its plausibility and it has highlighted the education it gave to Ms C shortly before the scam commenced to support its position that she has been grossly negligent. But its suggestion that Ms C *“allowed herself to be wound up to the point of doing exactly what she was told by the scammer”* overlooks the fact that consumers do not want and are not expecting to be scammed as a default starting position. I do not consider Ms C would have consciously taken actions that cause her to suffer financial harm.

I remain of the opinion that Monzo has not given sufficient weight to the environment that the fraudsters created when assessing Ms C’s actions. Fraudsters know that fear and panic can

have a negative effect on a person's thought process and can make people take steps that they might not otherwise take outside of that pressured environment. Ms C has said she had *"taken all necessary action to freeze my account immediately but SADLY all were FAKE"*. It's clear to me that Ms C genuinely believed that her money was at risk and her primary motivation in the moment was to try and protect it. Speaking to the fraudsters so soon after having contact with the genuine bank, and against the backdrop of Ms C's account details being compromised by a retailer made the urgency of the situation seem more plausible to her, not less.

Whilst I recognise Monzo's concerns about Ms C's actions and the manner in which she shared the information to ultimately enable the scam, it is important to place weight on Ms C's genuine belief in who she was speaking with, the air of legitimacy and trust that had been created by the fraudsters and the fact that Ms C's details had been compromised with a retailer which added weight to the plausibility of the situation. I won't repeat again the comments I made in my provisional decision about Ms C's actions when sharing the 'magic link' email and the PIN code, other than to say that nothing Monzo has said in its response changes my initial assessment of those specific actions. I am still persuaded it was difficult for Miss C to think critically in the heat of the moment. That's not unreasonable and is of course why frauds like this can be so successful.

Ms C has explained that *"all actions taken subsequent to receiving the email from [the retailer] was with the intention to protect my hard earned savings in the bank, not realising that the modus operandi of the scam involved correspondences through email, which made it appeared 'legitimate' [sic]."*

Monzo has suggested that Ms C should have recognised how a scam like this unfolds because of the education it had given her so close to when the scam took place. It says, *"we described this exact scam scenario to the customer just hours before it happened, and also warned that if this were to happen then they should hang up the call."*

It is not in dispute that Monzo and Ms C were in contact earlier that day. Ms C contacted the bank to ask for advice about a text message saying there was an unknown attempted log in to her account today. Monzo confirmed the text was not genuine. The bank went on to say:

"Just so you're aware, Monzo would never call you telling you your money isn't safe, that you need to move it to a "safe account", tell you to take out a loan or overdraft, or ask for you [sic] PIN. If you receive any other messages like this please do not give them any information. You can read more about this on our blog."

Ms C explained that she had frozen her card and asked if there was anything else she could do to protect her account. The bank said:

"The most important thing you can do is to be wary of phishing texts, emails or calls from people pretending to be us. Here's a link to our blog with more information about these kinds of scams. It explains what we'll do if we ever need to contact you and, most importantly, the information we'll never ask you to provide."

I'm not persuaded the information that was given to Ms C should have impacted her decision making and assessment of whether the calls that followed later that evening were genuine or not. The information doesn't really bring to life what a scam like this can look and feel like in any meaningful way. In my provisional decision, I said the scam education lacked impact because it referred Ms C to a blog post and I am still not persuaded that it was strong enough to have given Ms C a clear and lasting understanding of what the hallmarks of a safe account scam are.

Overall, I don't think Ms C seriously disregarded an obvious risk when she, on balance, unwittingly shared sufficient details to facilitate this fraud. This means I do not consider that Ms C has failed with *gross* negligence. It can be difficult for consumers to think clearly and rationally under the kind of worry and emotional pressure Ms C found herself under at the hands of the fraudster. I think a lot of people would have been fooled into doing the same or something similar in the heat of the moment. It follows that I don't think Ms C's actions falls so far below what a reasonable person would have done that it amounts to gross negligence. So I conclude Ms C isn't liable for the transactions in dispute and Monzo needs to put that right.

Having considered everything, I remain of the position that this complaint should be upheld. That position is supported by the explanation I have added here and the reasons I gave in my provisional decision, which is attached above and forms part of this final decision.

Putting things right

Monzo Bank Ltd should now:

Reimburse Ms C £1,020 for the unauthorised transaction made from her account.

Pay 8% simple interest per year on this amount, from the date of the unauthorised transaction to the date of settlement (less any tax lawfully deductible).

Pay Ms C a further £100 for the distress and inconvenience caused.

My final decision

My final decision is that I uphold Ms C's complaint about Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 27 May 2022.

Claire Marsh
Ombudsman