

The complaint

Mr R is unhappy with Monzo Bank Ltd.'s response to his complaint. It declined to refund him after he sent £3,980 to scammers.

What happened

I set out the background and facts to this complaint in detail in my provisional decision. But in summary Mr R sent £3,980 to scammers thinking he was dealing with HMRC. Monzo didn't uphold his complaint as it didn't feel Mr R had a reasonable basis of belief for proceeding with the payment.

I set my provisional decision to both parties explaining why I wasn't upholding the complaint. I said

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. In doing so I've come to a different outcome to the investigator. I'll explain why.

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.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

When thinking about what is fair and reasonable in this case, I've considered whether Monzo should have reimbursed Mr R in line with the provisions of the CRM Code it has agreed to adhere to and whether it ought to have done more to protect Mr R from the possibility of financial harm from fraud.

There's no dispute here that Mr R was tricked into making the payment. He thought he owed tax and there would be serious consequences if he didn't pay this. But this isn't enough, in and of itself, for Mr R to receive a refund of the money under the CRM Code. The Code places a level of care on Mr R too.

THE CRM CODE

Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (the CRM Code) which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances.

It is for Monzo to establish that a customer failed to meet a requisite level of care under one or more of the listed exceptions set out in the CRM Code.

Those exceptions are:

- *The customer ignored an effective warning in relation to the payment being made.*

- The customer made the payment without a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate

There are further exceptions within the CRM Code, but they do not apply in this case.

Did Monzo provide an effective warning?

I have considered all the warnings Mr R was presented with during the payment journey. In reaching my provisional decision I've taken into account whether Monzo provided an effective warning and if it did, whether Mr R took appropriate action in response to that warning. Having done so I'm provisionally satisfied that Monzo met the standards required of it by the Code. I think that the culmination of these warnings provided Mr R with enough information about the type of scam he fell victim, with sufficient impact, that it amounted to being effective. I say this because:

- it says this is very likely to be a scam and tells Mr R to stop;
- it says HMRC would never pressure him into paying over the phone;
- it explained the common features of the scam, including that numbers could be faked and that a specific number should be called to verify the call, importantly this number was different to the number Mr R had been called on;
- the warning is bold and red and takes up the entire screen so Mr R couldn't miss it;
- it explained steps Mr R could take to prevent him from falling victim to this scam – that he should call the number and to stop;
- and it warned him that if he went ahead with the payment it might not be able to recover his money.

But giving an effective warning isn't enough for Monzo to rely on this on exception to reimbursement under the CRM Code. For it to do so it must be able to establish that Mr R ignored the warning. Or in other words that Mr R failed to take appropriate action in response to the warning it provided. So, I've gone on to consider this.

Did Mr R take appropriate action in response to the warning Monzo provided?

Mr R has said one of the main reasons he thought the scam was convincing was that he was told the account he was transferring the money to, was set up in his own name. He says he had received warnings previously to explain when an account name didn't match, but he didn't with this payment. In this instance Monzo couldn't check the name on the recipient bank account because the receiving bank didn't have the same systems in place. Monzo says where a check can't be made the consumer is told. Mr R received a message that the name couldn't be checked, that it could be a scam and if he proceeded his money couldn't likely be recovered. I think having seen this message at the very outset of the payment journey it should have created some doubt in Mr R's mind as he couldn't verify that the account was in his name, especially as he said this was a convincing element of the scam. I've also considered the above, in the context of the warnings that Mr R was presented with.

I've thought about the "HMRC" and "paying someone else" warnings that he would have seen. Monzo has provided evidence to show Mr R spent five minutes looking at each of the warnings. The HMRC warning said "stop, don't pay" it takes up the whole screen with a bright red background. It provided relevant information about the type of scam Mr R was victim to, including asking him to call HMRC directly on a specific number. He says he didn't do this because he'd been called by a number which appeared on the HMRC website – although it wasn't the main number. I'm satisfied Mr R received that call from the faked HMRC number before he made the payment to the scammer and I appreciate that a faked number is a convincing element in these types of scams. But the warning mentioned a number could be faked and that HMRC wouldn't pressure anyone to pay over the phone. So, it's difficult to see why Mr R proceeded with the payment given the relevance of the warning to his situation and given that he took some time to read it.

It's not clear why, but Mr R then moved on to a different payment option and selected to pay "someone else". This warning doesn't seem relevant to the payment Mr R was making and he's not been able to provide a reasonable explanation as to why he selected a different reason for the payment having already seen and read the "HMRC" warning. This warning also explains that telephone numbers can be faked and if he wasn't confident then he shouldn't proceed. Again, Mr R spent a further 5 minutes on this warning screen and it's not clear why he proceeded at this point.

Finally, Mr R would have seen a pop-up which asked if he was sure he wanted to continue,

explaining the consequences of doing so.

Mr R says he was given a number to type into the HMRC website on the payments section but was then told it wasn't active and he could only proceed when he had made the payment. He's also said when he typed that number in and it "worked" because it didn't return an error code and this also convinced him he was genuinely dealing with HMRC. Mr R hasn't explained where he entered this code on the HMRC website and what was displayed when he did so. He hasn't said he was then able to access any details about himself or the tax owed. So I'm not persuaded that a result with a "no error code" means he was presented with persuasive evidence he owed tax or was genuinely dealing with HMRC.

When asked what he thought of the warnings he said they were generic and he spent time looking at them to see if they were telling him not to make the payment – he says they didn't, so he proceeded. I appreciate it's now been quite some time since the scam took place, so Mr R may not recall exactly why he chose to proceed with the payment. But I think the warnings did tell him not to make the payment. I don't think the first warning is generic, as Mr R says, it matched closely the scam he fell victim to. Mr R has said that he was told to ignore the warnings as it was common for all first-time payees and his name had been blacklisted so he would see warnings before he made any payments but he should still go ahead. But this contradicts what he said about spending time looking at the different warnings to see if they were telling him it was a scam and not to make the payment. Mr R spent a total of 10 minutes looking at the warnings, so I'm not convinced he didn't read or understand their content. Even if he was told to ignore them, I think their content should have caused him to stop what he was doing and make the checks the warnings suggested he did before proceeding with the payment.

Having considered what Mr R has said I don't think he's provided a reasonable explanation for moving past these combined warnings and continuing with the payment. Instead I think there was enough here that he should've doubted what he was being asked to do.

If Mr R had taken appropriate action in response to the effective warning presented would this have prevented the scam from taking place?

I am satisfied that if Mr R had followed the actions given in the warning messages then it would've been effective in preventing the scam. If Mr R had called the HMRC number given in the warning then he would have discovered the call he had received wasn't genuine. This means that Monzo are entitled to apply this exception to full reimbursement and don't have to refund Mr R the money that he lost as a result of the scam.

In summary

I've thought about whether Monzo did enough under the CRM Code and I think it did. I'm satisfied it provided an effective warning. In these particular circumstances I don't think it needed to do anymore to protect Mr R as the payment wasn't remarkable enough to prompt further intervention. I've also thought about if there are any other reasons why Monzo should've refunded Mr R and I don't think there are. I'm satisfied that Monzo did all it could and acted promptly when the scam came to light in terms of its attempts to recover Mr R's funds after the scam.

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 I haven't departed from the findings made in my provisional decision. I'll explain why.

Monzo didn't respond to my provisional findings, so I presume had nothing further to add.

Mr R initially responded to say he didn't agree and wanted to appeal my provisional decision. He said it was unfair that he'd spent a great deal of time providing information to our service and had to wait a long time for an answer. And our initial answer upheld his complaint.

He said he was harassed by the scammers acting as law enforcement to get money out of him and told that he would be deported. Information I had already carefully considered when reaching my provisional decision. We asked if Mr R had any specific points he wanted to raise or that he disagreed with in the provisional decision. He initially asked for more time to respond, which we allowed, but we haven't had a response since, despite sending several chasers. So I have based my final decision on the points Mr R raised in his initial response to my provisional decision.

I appreciate Mr R is unhappy with the outcome and feels he has invested a lot of time in bringing his complaint to our service. But I'm not persuaded that Monzo are at fault by not refunding him.

Mr R has been the victim of a cruel scam but that doesn't automatically mean that Monzo should refund him. I've carefully considered the evidence and the relevant redress scheme in place (the CRM code) and based on everything I'm not recommending that Monzo refund Mr R here. And he hasn't provided me with any new evidence or arguments to persuade me that I should reach a different conclusion to that set out in my provisional decision.

My final decision

As set out above and in my provisional decision I do not uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 16 February 2022.

Sophia Smith
Ombudsman