DRN-3283067

## The complaint

Mr A complains that Monzo Bank Ltd ("Monzo") have failed to refund £350 he says he lost as part of a scam.

## What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. In summary, Mr A sent £350 to a seller of an iPhone who was known to him through his employment. The seller said he had won the phone in a competition but had no use for it.

However, the seller did not send the phone to Mr A, and neither did he provide him with a refund, but just gave a variety of excuses as to why he couldn't send the money back to him. Mr A complained to Monzo, who refused to provide him with a refund as it said it was a civil dispute between Mr A and the seller.

Our investigator upheld the complaint as he wasn't persuaded the dispute was purely a civil matter given that the seller appeared to have always had the intention to defraud Mr A, such that it should fall within the scope of the Contingent Reimbursement Model (CRM) Code. Monzo disagreed, so the matter has been escalated to me to determine.

## 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.

Monzo has signed up to the CRM Code, which was in force at the time Mr A paid the seller. Under the CRM Code, the starting principle is that a firm should reimburse a customer who has been the victim of an Authorised Push Payment ('APP') scam. But the CRM Code is quite explicit in that it doesn't apply to all APPs. In this regard, it stated:

> *"DS2(2) This code does not apply to*
>
> *(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier".*

I've considered the evidence Mr A has provided, including the messages he sent to and received from the seller about the delivery of the item and attempts for his money to be refunded. Having done so, I'm not persuaded that the seller is a legitimate supplier for goods. I acknowledge that the seller has continued to correspond with Mr A and was previously known to him through past employment. This is undoubtedly unusual in cases of fraud.

But overall, considering what the seller has said and done, I'm satisfied they set out to defraud Mr A from the outset. The seller has never been able to provide any evidence that the phone exists, and the explanations provided regarding the lack of delivery and refund are spurious at best. So, on balance, I’m satisfied the seller does not appear to have had any legitimate intention, but rather showed an intent to defraud, and I do not consider this to be the type of civil matter excluded under the CRM Code.

The Code requires firms to reimburse customers who have been the victim of APP scams, like the one Mr A has fallen victim to, in all but a limited number of circumstances. Other than submitting that Mr A’s dispute is a civil matter, Monzo hasn’t put forwards any other substantive reasons as to why any of the exceptions within the Code should apply. And having reviewed the evidence, I’m not persuaded that any of the exceptions apply either. I’ve not seen, for example, that an effective warning was provided that was ignored by Mr A. And neither do I think he had no reasonable basis for believing that the seller had genuine intentions, given that it was someone who he had previously worked with and had no reason (at that time) to distrust.

Therefore, I’m satisfied it would be fair and reasonable in the circumstances for Monzo to refund Mr A the money he sent to the scammer.

**My final decision**

For the reasons given above I uphold this complaint and direct Monzo Bank Ltd to refund the £350 Mr A paid to the scammer, plus 8% simple interest per year from the date it was paid until the date of settlement.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr A to accept or reject my decision before 23 May 2022.

Jack Ferris
**Ombudsman**