

The complaint

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

What happened

- In August 2020, Miss A received an automated call purporting to be from HMRC, claiming she was being investigated for tax evasion and fraud. This was a scam. She was directed call through to the "officer" for her case. They asked her to verify her details, which they said they had, and provided her with their badge number. They told her she needed to pay tax that she owed, plus bail and juror/court costs, otherwise she'd be arrested. She was a student with some zero-hour contract jobs. She hadn't been taxed by an employer, which she'd previously thought was due to her being a student and her level of income, so thought the call was linked to that. And her phone has a feature which is meant to block scam calls.
- Feeling scared, she proceeded to make three payments, totalling £3,550, to two different personal accounts. She says she queried why she had to pay personal accounts and was told it was for her privacy. The scammers guided her through the process of making the payments. Miss A selected that she was paying HMRC and was shown a scam warning. She says she'd been warned this would come up, but that it was bank security that everyone got, so she should continue. For the subsequent payments, she was directed to select other payment reasons as selecting HMRC could affect her credit score – and to keep the matter private.
- Miss A was told HMRC would call back the next day. When they didn't, she realised it might be a scam and reported this to Monzo. It said it couldn't recover the money, and it wouldn't refund her directly as she hadn't taken reasonable measures to keep her account safe.
- Our investigator thought Monzo ought to refund Miss A in line with the CRM Code. Monzo disagreed, so the case has been escalated to me to determine.

My provisional decision

I issued my provisional decision earlier in March 2022, explaining I wasn't minded to uphold the complaint for these reasons:

- *It's not in dispute that Miss A was tricked into making the payments as the victim of an authorised push payment (APP) scam. But the starting position is that she's liable – as, in line with the Payment Services Regulations, banks are expected to process payments authorised by its customers.*
- *That said, there are some circumstances in which it may be fair and reasonable for a bank to refund the victim of an APP scam. Monzo has committed to following the standards set in the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. This says banks should refund APP victims unless they can show an exception within the code applies. It also places a duty of care on the victim. In this case, the relevant 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*
- *I'm satisfied the warning shown when Miss A selected that she was paying HMRC was effective, in line with the standards set by the code. This is because:*
 - *It was shown just before she made any payments*
 - *It was bold and red, taking up the whole screen, so was attention grabbing*
 - *It explained it was very likely a scam and that HMRC wouldn't pressure her to pay over the phone*
 - *It explained that fraudsters can fake numbers, and it gave HMRC's official number – which differed to the one Miss A was speaking to*
 - *It also directed her to take steps to prevent her falling victim to the scam. Such as telling her to stop, and directing her to call HMRC directly to verify if the request was genuine.*
 - *It warned Miss A that, if she went ahead, it probably wouldn't be able to get the money back*
- *I'm therefore persuaded Monzo met its obligations under the code when giving this warning. But it can only rely on this exception as a reason not to refund Miss A if she failed to take appropriate action in response to the warning that would have prevented the scam.*
- *Miss A has told us she thought her phone blocked scam calls. She also thought the tax issue could relate to a job she had. But I'm conscious that, based on what she's told us, there's nothing to suggest the scammers had any personal details for her, such as her employment information – or even basic details such as her name and date of birth. They told her they had her details, but that she had to provide them to "verify" herself. And they didn't provide any documentation to support that she owed tax – or to explain the reasons for this. I also think the explanation given for why she needed to pay personal accounts left some doubt about the legitimacy of the request, given that these were allegedly payments for HMRC and the courts.*
- *In the circumstances – including that she was being put under pressure and was told to expect the warning – I think the warning ought to have caused Miss A to question whether the request was genuine. I don't think it's enough that Miss A was told to proceed due to the warning being part of bank procedure – as that procedure is there to protect consumers from fraud. The warning was bold and impactful, and the situation it described closely matched the scam Miss A fell victim to. It also showed that HMRC's number was different to the number that had called her. A further popup also generated asking if she was sure and explaining the consequences of proceeding. In the circumstances of the scam, and in the context of seeing the warning, I'm not persuaded Miss A took appropriate action in response to the warning. I think there was enough to undermine her reasonable basis for believing the request to be genuine.*

- *If Miss A had taken appropriate action in response to the warning – such as calling HMRC as directed – I’m satisfied that would have prevented the scam, as they would have confirmed the call wasn’t genuine. So, overall, I consider it fair for Monzo to rely on this exception as a reason not to reimburse Miss A.*
- *Overall, I think Monzo did enough to protect Miss A in line with the CRM code. I provided an effective warning, and I don’t think it needed to do more to protect Miss A in the circumstances, as the payments weren’t remarkable enough to prompt further intervention. I’m not persuaded there are other grounds for expecting Monzo to refund Miss A. I can’t see, for example, that it caused a delay that prevented her from recovering the funds – which are generally transferred on quickly after the scam.*

I realise this will be disappointing for Miss A, who has clearly been the victim of a cruel and sophisticated scam. My role is to consider if Monzo can fairly and reasonably be held liable for her loss. In the circumstances, based on the standards set by the CRM Code, I’m not minded to conclude that Monzo is obliged to refund her.

I invited both parties to submit anything further evidence or comments. Monzo has confirmed it has nothing to add. Miss A says she was young and scared in the situation, but that she understands the reasoning.

As both parties have responded, I can now proceed to my final determination.

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.

As neither party has substantially disagreed with my provisional decision, or provided significant new evidence, I see no reason to depart from my provisional findings. I’d reassure Miss A that I’ve taken her circumstances into account when considering her response to the warning and whether she had a reasonable basis for belief. I greatly empathise with her situation; she’s been the victim of a scam which has affected her financially – as well as undoubtedly causing her great stress and upset. But my role is to consider Monzo’s actions and responsibilities. In line with the CRM Code, I’m satisfied it didn’t unfairly reject her fraud claim. Given this, and for the reasons set out above in my provisional decision, I’m not upholding this complaint.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss A to accept or reject my decision before 21 April 2022.

Rachel Loughlin
Ombudsman