

The complaint

Mr T is unhappy that Monzo Bank Ltd won't refund the money he's lost to a scam.

What happened

On 16 December 2021, Mr T made a payment of £125 towards what he thought was a video game console from a seller on a social media marketplace.

Mr T saw the games console advertised. He says he checked the seller's profile as well as the seller's partner's profile to check they were genuine. Mr T offered to pay by a secure money transfer service or with cash. The seller said he didn't use the secure money transfer service and didn't want to risk a payment by cash. They agreed Mr T would pay by bank transfer and collect the item from the seller's house. The seller told Mr T he would take the item outside the house once the money had been transferred. When Mr T transferred the money, the name produced a match for the seller's partner. However, when Mr T knocked at the door, he discovered the seller had given him a false address and he'd been scammed.

Monzo declined Mr T's claim as it said Mr T didn't carry out enough checks and it didn't feel the scam was very sophisticated. It felt Mr T had no real reason to believe the seller had the item or that the seller was who he said he was. It said there wasn't much of a conversation before the payment was sent and Mr T didn't question why the payment wasn't in the seller's name. It also felt that Mr T ignored an effective warning.

Our investigator upheld the complaint, she considered that Monzo did not give an effective warning and that Mr T had a reasonable basis for believing he was making a genuine payment. Monzo didn't agree. It considers not being shown the goods before payment is clearly a tactic of this type of scam. It also pointed out that the social media marketplace provided warnings about scams like this.

As the case could not be resolved informally, it's been passed to me for a 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.

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. There's no dispute here that Mr T authorised the payment.

However, where a customer makes a payment as a consequence of the actions of a

fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer 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 T in line with the provisions of the Contingent Reimbursement Model ('CRM Code') it has agreed to adhere to and whether it ought to have done more to protect Mr T from the possibility of financial harm from fraud.

There's no dispute here that Mr T was tricked into making the payment. He thought he would receive a game console in exchange for his money and this wasn't the case. But this isn't enough, in itself, for Mr T to receive a refund of the money under the CRM Code. The Code places a level of care on Mr T too.

The CRM Code

Monzo has agreed to adhere to the provisions of the Lending Standards Board CRM Code. The CRM Code 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:

- Mr T ignored an "effective warning" in relation to the payment being made.
- Mr T made the payment without a reasonable basis for believing that: the payee was the person he was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom Mr T transacted was legitimate.

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

Taking into account all of the circumstances of this case, including the characteristics of the customer and the complexity of the scam, I am not persuaded the concerns Monzo has raised about the legitimacy of the transaction Mr T was making are enough to support its position that he failed to meet his requisite level of care under the CRM Code for the payment he made. It follows that I do not think Monzo has been able to establish that it may choose not to reimburse Mr T under the terms of the CRM Code.

Having thought about what both sides have said and provided, I consider Mr T had a reasonable basis for believing the payment he was making was for a genuine games console and that the person he was transacting with was a legitimate seller. In reaching that conclusion, I have thought carefully about what it is realistic to have expected Mr T to do when he was paying the sum of £125.

Did Mr T have a reasonable basis for belief?

I think Mr T took enough care with a relatively modest payment of £125 to say that he had a reasonable basis for believing he was buying a games console from a genuine seller. I say this because:

- Mr T says he checked the social media profile for the seller and his partner, and the profiles looked to go back some time - with old posts and photos with others. (I note the advert page indicated the seller had joined the social media platform around 9 years earlier). This persuaded him that he was dealing with a legitimate person.

- During the exchange in messages, the seller gave Mr T his address thus, reassuring him further of the legitimacy of the person and the sale.
- The price he was quoted was similar and - in my view - was a fair reflection of the market value for a second-hand games console like this at that time.
- Mr T also received a confirmation of payee match when entering the account holders name – albeit the account name belonged to the partner of the seller, rather than the seller himself.

I have considered Monzo's arguments carefully, but I don't find them persuasive. I am not persuaded Mr T needed to make extensive enquiries or actions in the particular circumstances of this case. I've thought carefully about the sum Mr T paid and how the seller communicated with him and I think Mr T's actions and assessment of the situation were appropriate and proportionate to the payment of £125.

Should Monzo have done more to try and prevent the scam and protect Mr T?

I've thought about whether Monzo did enough to protect Mr T from becoming a victim of a scam. The CRM Code says that where firms identify APP scam risks in a payment journey, they should provide effective warnings to their customers. The Code also says that the assessment of whether a firm has met a standard or not should involve consideration of whether compliance with that standard would have had a material effect on preventing the scam.

I am also mindful that when Mr T made this payment, Monzo should fairly and reasonably have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things).

In this case, Mr T was making a relatively modest payment. I don't think the amount of this payment would have made it stand out enough for Monzo to have been concerned that Mr T might have been at risk of financial harm from fraud at the time that he made it. The payment was relatively low in value. So, I don't think Monzo should have identified an APP scam risk in the payment journey or that it needed to provide Mr T with an effective warning.

That said, Monzo has said a 'low friction warning' was shown. I've still considered whether seeing the warning at the time the payment was made should have altered Mr T's thought processes.

Looking at the warning Monzo says was provided, I can see it attempts to prevent a number of different scams, but I don't think the warning makes the risk of falling victim to this particular type of purchase scam obvious. It doesn't cover the common features of this type of goods scam or really bring to life what the type of scam Mr T fell victim to looks like. And it doesn't explain in sufficient detail what Mr T could have done to protect himself against this type of scam. Overall, I'm not persuaded that a reasonable person in Mr T's position would fully understand the scam risk from the warning Monzo gave.

Taking account of all the circumstances here, which includes the warning messages Monzo says it gave, I don't think Mr T's actions fell below the level of care expected of him in this situation. I think Monzo ought to have fully refunded Mr T at the time he reported the loss and so it should fairly and reasonably compensate him by refunding that loss now, along with interest. The payment was made from Mr T's current account. I think it's likely that had he not been defrauded he would have spent it on other things. So, I consider it fairest to award 8% simple interest.

Did Monzo do enough to recover Mr T's funds?

In light of my conclusions above, it is not necessary in this case to consider whether the bank also exercised enough care and urgency in trying to recover the stolen funds from the payee bank. But, in thinking about whether Monzo took reasonable steps to recover Mr T's funds once it was made aware he was the victim of a scam – I note there was some delay by Monzo in reporting the scam to the payee bank.

The scam payment was made at 18.54 on 16 December 2021 and Mr T reported the scam to Monzo on the same day at 19.07. Monzo contacted the receiving bank the following day (over 24 hours after Mr T first contacted it). I can see Monzo chased the payee bank and never received a response. I appreciate the actions of the payee bank mean we don't know whether the funds were removed immediately (as they often are in cases like this) and therefore we don't know whether earlier intervention by Monzo would have made a difference - but suffice to say, I don't think Monzo met the standards required of it here.

Putting things right

For the reasons set out above, I've decided that Mr T ought reasonably to have been fully refunded under the CRM Code. I therefore direct Monzo Bank Ltd to pay him:

- All of the money he lost – £125 – within 28 days of receiving notification of his acceptance of my final decision: plus
- interest at the simple rate of 8% per year on that amount (less any tax properly deductible)¹. from the date Monzo declined Mr T's claim under the CRM Code to the date of settlement.

My final decision

For the reasons above, my final decision is I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 21 July 2022.

Kathryn Milne
Ombudsman

¹ If Monzo is legally required to deduct tax from the interest it should send Mr T a tax deduction certificate so he can claim it back from HMRC if appropriate.