

## **The complaint**

Mr K complains Monzo Bank Ltd didn't reimburse the money he lost when he was tricked into paying for an item he did not receive.

## **What happened**

Both parties are aware of the circumstances of the complaint, so I won't repeat them all here. But briefly, both parties accept that Mr K was the victim of a scam after he made a faster payment of £440. He made this payment for a used mobile phone he'd seen advertised for sale on a popular social media platform.

Mr K explains he'd used this same marketplace to purchase several other items before and had never had a problem. He'd typically arrange to collect in person, but on this occasion the seller was located too far from him. So, he arranged for the seller to arrange delivery instead. The seller provided Mr K with a picture of the phone, and they agreed a price to include delivery.

Mr K asked to pay using an e-money service, but the seller told him they didn't have an account with that provider. She asked him for payment by bank transfer instead. The seller provided Mr K with a copy of her driving licence to act as proof of identity and Mr K noted that all the details on the licence appeared correct. In particular, the payee name he'd been given matched the identification, which reassured him. Mr K then sent payment via his mobile app.

Mr K was told he'd be sent tracking details the following day. When these didn't arrive, he tried to contact the seller, but didn't get any reply. He then found the seller had blocked him. Mr K realised he'd been the victim of a scam and contacted Monzo to report it.

The Lending Standards Board Contingent Reimbursement Model (CRM Code) requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. Monzo isn't a signatory of the CRM Code but it has stated that it is committed to applying the principles set out in it. Monzo said one or more of the exceptions to reimbursement applies in Mr K's case and didn't agree to refund Mr K. It said it had given Mr K a scam warning and didn't consider he'd taken sufficient steps to verify he was paying a legitimate seller for a legitimate item.

One of our investigators looked into Mr K's complaint and thought it ought to be upheld. The investigator didn't believe Monzo had fairly applied the CRM Code when it considered his scam claim. She didn't think that Monzo had provided an effective warning. She also didn't agree that Monzo had been able to establish Mr K had made the payment without a reasonable basis for believing he was making a legitimate purchase from a legitimate seller.

Monzo maintained its position. In summary, it said:

- it said the CRM Code required the sending bank to supply a warning but the code didn't require the warning to be specific, nor was it was not obligated to describe scams in its warnings;
- it was satisfied its warnings met the requirements of the CRM code based on

- machine learning and experience;
- it wasn't permitted to include messages in these warnings about alternative ways to make payments that might be safer than bank transfer;
- Mr K had met the person via social media and he hadn't seen that the seller had access to the phone being sold - the photos provided by the seller could have been stock photos;
- Mr K hadn't done enough research into who exactly he was paying;
- While it was 'nearly diligent' to have requested payment by a different method, when that alternate method was not possible it should have been a red-flag to Mr K;
- Overall, this had been a simple scam with no due diligence by Mr K. He hadn't done enough to check that the item was legitimately available and that the seller did have the device.

In light of this disagreement, I have been asked to make a final decision on the outcome of Mr K's 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.

Having done so, I am satisfied that:

- Under the terms of the CRM Code, Monzo should have refunded the money Mr K lost. I am not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this case.
- In the circumstances Monzo should fairly and reasonably refund the money Mr K lost.
- The money was sent from Mr K's personal current account. It is not clear how Mr K would have used the money if Monzo had refunded it when it should have done. But if Monzo had refunded the money when it ought reasonably to have done, Mr K would not have been deprived of it for the time he has. So, Monzo should also pay interest on the balance not yet refunded at a rate of 8% simple per year. This interest should apply from the date Monzo first declined to refund Mr K, to the date of settlement.

I'm satisfied that Monzo has not shown that Mr K ignored an effective scam warning or made the payment without a reasonable basis for believing that he was paying a legitimate seller for a legitimate item. It follows that I am not persuaded that Monzo has been able to establish those exceptions to reimbursement can fairly be applied to Mr K's claim. I will explain why I have reached this finding.

The warning Monzo says it gave Mr K was not tailored to any particular scam type, being generic in nature. In its response to the investigator Monzo said that the CRM Code doesn't require that an effective warning needs to be specific or describe scams.

I understand the challenge that Monzo faces in designing effective warnings, and fulfilling the requirements set out in the CRM Code. But I don't agree with Monzo's argument that the CRM Code doesn't require such warnings to be specific. I'd point Monzo to section SF1(2) in the CRM Code which covers (under the heading 'Prevention') the standards expected of the sending bank when providing an 'effective warning'. At SF1(2)(e) it states "*As a minimum, Effective Warnings should meet the following criteria [...] (iv) Specific – tailored to the customer type and the APP scam risk identified by analytics during the Payment Journey, and/or during contact with the Customer*". In short, the CRM Code does require as part of the minimum standard that an effective warning should be specific.

The CRM Code also states at SF1(2)(d) that “*Effective Warnings should enable the Customer to understand what actions they need to take to address the risk, such as more appropriate payment methods which may have additional protections, and the consequences of not doing so*”. So, I can’t agree with Monzo that it isn’t possible or permitted for the warnings it gives to mention alternative ways to make payments.

In short though, the CRM Code specifies that *as a minimum* an effective warning message needs to be tailored to the type of scam risk identified by the firm during the payment journey – for example that of a typical purchase scam. The warning message Monzo says it provided to Mr K did not meet that specification.

Further, the CRM Code requires an effective warning to be impactful - in its ability to help reduce the likelihood of such an APP scam succeeding. The warning Monzo says it gave relied on the reader already having doubts that this might be a scam - but in many such APP scams, the consumer has already been persuaded the payment is legitimate. I don’t find the warning given met the requirement to be impactful. So again, I find the warning fell short of the minimum requirements given in the CRM Code for an effective warning.

It follows that I am not satisfied that Monzo has established that Mr K ignored an effective warning given in compliance with the CRM Code: the warning message provided did not meet the minimum requirements of such a warning.

Even if I had found the warning given was effective in terms of the CRM Code specification (which I do not), I don’t consider Mr K’s actions in response were inappropriate. I say this because the message recommended clicking a link for further advice if a customer had doubts that the payee might be trying to scam them – giving one example as being if the offer sounded too good to be true. But in the circumstances here, the offer wasn’t too good to be true, and Mr K didn’t have such doubts. I’ve gone on to consider whether his belief in the legitimacy of this transaction was a reasonable one.

The seller’s explanation about the choice of payment method was simply that she didn’t hold an account with the e-money provider Mr K would otherwise have used. While not a particularly sophisticated or detailed explanation I don’t think there was anything implausible about the seller not having such an account. And in such a circumstance it is hard to see what alternatives were open to Mr K to suggest. I’d not expect a private seller to be in a position to accept card payments instead. Of course, had he been collecting the item in person, he could have paid in cash, but the lack of proximity made this impractical.

In saying that, regardless of whether alternative methods of payment were or weren’t possible, implicit in Monzo’s argument is that Mr K could have simply chosen not to go ahead. Had there been grounds for Mr K to be concerned that the seller might not be genuine, I’d agree that would have been the reasonable course of action for him to take. But in the absence of such grounds, I am not persuaded that the choice of payment method in itself established that Mr K could not have reasonably thought the seller legitimate. So I’ve considered the other circumstances surrounding the payment.

Firstly, I think it relevant that the price he was paying was broadly in line with the second-hand item being offered – it wasn’t too good to be true. The contact Mr K had with the seller didn’t raise any concerns for him, and I’ve seen nothing to suggest that it should have. I consider the information and photos provided by the seller appeared in line with what might be expected were the seller legitimate – in other words while these didn’t prove beyond doubt that the seller or item must be legitimate they didn’t in themselves raise any reasonable concerns or doubts for Mr K. Mr K says the seller was too far away for him to collect in person - I don’t find it particularly unusual to pay for an item online and have it

delivered rather than necessarily seeing it in person first, nor a necessary cause for concern on Mr K's part.

I accept Monzo's point that anyone can post an advert for an item and so an advert, in itself, is no guarantee that a seller is legitimate, and that the photos displayed do not prove the seller had the item. But that evidence is not wholly irrelevant – when someone is buying an item, I think it is reasonable to believe that the picture they form of the reliability of the seller will typically be based on multiple pieces of evidence. And while I think in isolation nothing typically proves beyond doubt that the seller is or is not genuine, this evidence is nonetheless all that a customer can base their actions on, and I don't find that inherently unreasonable or careless.

As I've detailed above, Mr K didn't place sole reliance on the advert or photo of the item. His belief in the seller's legitimacy and that of the item. While none of these was conclusive proof of that legitimacy, I'm satisfied that Mr K carried out checks proportionate to the purchase he was undertaking.

In short, taking account of all the circumstances here, on balance I'm not satisfied that Monzo has been able to establish that Mr K made the payment without a reasonable basis for believing he was paying a genuine seller for a genuine item. Neither do I find Monzo has established that Mr K ignored an effective warning it gave in compliance with the CRM Code. It follows that Monzo cannot fairly apply the relevant exceptions to reimbursing Mr K under the CRM Code.

### **My final decision**

For the reasons outlined above, I've decided it is fair and reasonable to uphold Mr K's complaint about Monzo Bank Ltd. I therefore require Monzo Bank Ltd to pay Mr K:

- The balance of the money lost through this scam, being the sum of £440.00 less any sums already reimbursed or otherwise refunded; and,
- 8% simple interest per year on that amount calculated from the date the bank originally declined Mr K's claim until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 12 July 2022.

Stephen Dickie  
**Ombudsman**