

## **The complaint**

Mrs A is unhappy because Monzo Bank Ltd (“Monzo”) declined to refund £2,750 which she lost as the result of a scam.

## **What happened**

The details of the complaint are well known to both parties, so I won’t go into every detail of what happened here. But in summary, both parties accept that in October 2021, Mrs A was tricked into sending funds in the belief she was sending them to secure a rental property in London whilst she was living abroad.

Mrs A was looking to rent a property in London so searched online for properties. She found a website online, looked on their website and social media and spoke to someone via the website and messages. She had used this method to rent properties previously, though not the specific company in question. They showed her photos and videos of numerous properties they had on offer, and discussed prices, locations and proximity to things like supermarkets and hospitals. She was not able to physically check out the property because she was abroad at the time. She looked up the company she believed she was speaking to and saw they were a valid company and had operated since the early 2000s. Believing things to be legitimate, she agreed to make two payments – one of £1,000 as a security deposit and one of £1,750 for half of the total monthly rental cost. The person she spoke with asked her to pay via bank transfer or through cryptocurrency. She didn’t understand what cryptocurrency was at the time, so she said this didn’t give her any cause for concern. She opted to pay via bank transfer and did this over two days.

The scam came to light when Mrs A asked a friend to go to the address to collect some post she had sent there, and it transpired that someone else lived at the address. The website and social media pages had been taken down, and she could not get a reply from the person she had been speaking with. Mrs A raised the matter with Monzo. Monzo investigated Mrs A’s complaint and issued its final response in October 2021, not upholding the complaint. In summary, they didn’t accept liability because they said they had provided sufficient fraud warnings before Mr P made the payments. They also thought Mrs A could have done more to check she was dealing with a legitimate company who had the right to rent out the property in question. They did manage to retrieve just over £100 that remained in the receiving bank account after she reported the scam.

Unhappy with Monzo’s response, Mrs A brought her complaint to our service and one of our investigators looked into what happened. They recommended that the complaint should be upheld, and that Monzo should refund the money that Mrs A had lost, along with interest. In summary, our investigator didn’t consider that Mrs A had ignored any genuinely impactful warnings and they thought this was a sophisticated scam and very believable to Mrs A, so she had a reasonable basis for believing that she was making a payment towards a deposit for a legitimate flat in London.

Monzo didn’t agree with our investigator’s opinion on Mrs A’s complaint. In summary they maintained that she didn’t do sufficient checks to ensure she was genuinely talking to a legitimate business who had the right to rent the property to her because she:

- May have received photos and videos of the property, but she didn't do enough to confirm that the property was available. For example, she had not seen shown proof that the landlord was registered or owned the property; she hadn't visited the property or asked someone to do so on her behalf; and she hadn't paid by card or PayPal as legitimate letting agencies allow you to do.
- Had no reasonable basis for believing she was talking to a legitimate letting agency when she had spoken to them over a messaging service – she had not checked that the number was linked to a legitimate company, and the messaging application in question does not require any verification of who users are.
- Had been sent documentation after the first payment, but that documentation was of low quality and should have caused Mrs A to have done further checks prior to sending a second payment. For example, it contained someone else's name, and incorrect payment values.
- Was sent a screenshot of Companies House that contained the details of a company that was listed on the invoice, but there was no evidence the person she spoke to was linked to the legitimate business. Further, the business name on the social media account or the web address did not match the business name listed on the invoice.
- Had been offered an airport pickup, but there was no evidence this service existed or that the customer got picked up – it was merely another false promise by the scammer.
- Had not provided evidence that she had independently checked Companies House – and the invoice said the company was registered in 2001 not in 2003 as she claimed it said on Companies House.

They also pointed to previous decisions reached by ombudsmen at this service, which had been upheld in their favour and suggested that the cases had been similar and so logically we should reach the same conclusion in this case. As agreement couldn't be reached the complaint has now 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 the 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 in law is that a bank is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of their customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse them, even though they authorised the payment.

When thinking about what is fair and reasonable in this case, I have considered whether Monzo should reimburse some or all of the money Mrs A lost 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 Mrs A from the possibility of financial harm from fraud.

There is no dispute here that Mrs A was tricked into making the payments. But this is not enough, in and of itself, for Mrs A to receive a refund of the money under the CRM Code. The Code places a level of care on Mrs A too.

### *The CRM Code*

Monzo isn't a signatory of the Lending Standards Board Contingent Reimbursement Model ('CRM') Code which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances, but has agreed to apply its principles. Monzo say exceptions to reimbursement apply in this case. It says that Mrs A didn't have a reasonable basis for believing the person she transacted with was legitimate or was providing a legitimate service.

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 Mrs A ignore an effective warning in relation to the payment being made?*

Monzo, in its submissions to this service explained that whilst Mrs A would have been provided with a warning in the payment process, they didn't need to provide a warning under the CRM code and so were not relying on the warnings when they decided to reject Mrs A's complaint. Under the CRM Code, Monzo is required to present an effective warning where it identified a scam risk. I don't consider that the payments made by Mrs A were out of the ordinary and therefore, the bank ought to have believed there was a scam risk. The amounts sent weren't particularly large. I appreciate it is not an inconsequential sum of money, but I don't consider there were any concerning features of the two payments totalling £2,750 to put the bank on notice. And so, I don't believe the bank needed to do more than it did in terms of providing warnings about making the payments.

### *Did Mrs A have a reasonable basis for belief?*

I have carefully considered Monzo's representations about whether Mrs A had a reasonable basis for believing that the transactions were genuine. But it does not persuade me to reach this conclusion. In particular, I am not persuaded that Mrs A failed to take the requisite level of care required for Monzo to choose not to reimburse her under the terms of the CRM Code and I don't consider that Mrs A lacked a reasonable basis for belief. I say this because:

- Mrs A had found the website and social media of what she believed to be a legitimate business, so she got in touch with them through their website. They then spoke to her over messages and on the phone, and the conversation didn't give her any reason to believe that the person she was speaking to was not legitimate. And I don't

think using a messaging application when she had contacted them, they had spoken to her on the phone and she was expecting further communication from them would or should have rang an alarm bell in the circumstances of this scam. I do accept that the offer to pay the partial deposit in cryptocurrency could be seen as a red flag to those of us who are familiar with cryptocurrency, but Mrs A didn't really understand what it was and thought it was akin to mobile payment systems.

- Mrs A was not able to visit the properties in person as she was not in the country, but they were able to provide videos and photos of the properties and answer relevant questions she had about them. She didn't ask someone to go and visit the property on her behalf – and given that she was looking to rent the property for only around one month and she had experience in renting properties this way before, I think this was reasonable in the circumstances. She did ask a friend to pop over to pick up a parcel after she had agreed to rent it, and they confirmed that the property existed but that they couldn't get in as it was vacated and the 'letting agent' had not been able to meet them. Monzo argued she should not have paid until she had seen the property – but she was looking to organise somewhere to stay from the date she was arriving in the UK so I think it was reasonable to pay a deposit and payment towards the rent in order to secure the property.
- Mrs A didn't do checks into who owned the property – but I don't think this is common practice for letting properties. I do appreciate that she didn't think she was dealing with a high street company as Monzo have pointed out – but I don't think this means that she did insufficient checks. She thought she was dealing with a legitimate company – and as such that they had the right to rent her the property, and I think this is reasonable to believe without seeing evidence.
- The price did not appear to be too good to be true – it was a comparatively expensive rental due to the location in London, and it was in line with similar properties in the area. They also asked her to pay to secure the property, not the full balance, which is quite normal practice and so this would have likely further cemented her opinion that she was dealing with a legitimate company.
- Mrs A said she had checked Companies House and saw that the company had been operating since 2003. Monzo have correctly pointed out that it had been operating since 2001 – I think it is most likely that Mrs A mis-remembered the exact year the company was registered rather than that the company was registered. I don't think this means she did not do this check.
- Monzo have suggested that the documentation Mrs A received should have alerted her that she may not be dealing with a legitimate company, for numerous reasons which I will go through in turn:
  - The documentation uses 'word art' and generally does not look very professional. I agree that the documentation is not the most aesthetically pleasing documentation, and does appear less professional. But I don't think that by extension it should make someone who sees it think they were falling victim to a scam – just that they were dealing with a smaller business. I think the content of the documentation is more relevant than its presentation, which I will move onto consider next.
  - The documentation Mrs A received had someone else's name on it, rather than hers. But she had initially given the scammer the name of one of the party she was planning to travel with. If it were a totally random name, I think this would have impacted her basis for belief – but as this was not the case here I don't think

it should have alerted her to the risk of a scam.

- Monzo have argued that the documentation had the incorrect price on it when compared with what Mrs A paid them. I don't agree. She thought she was paying a deposit of £1,000 – which is listed as a security deposit on the document. And she thought she was paying half of the rent for the month, with the other half payable on arrival – the rent is listed at £3,500 for the month and half of this is £1,750 – which is the amount of the other payment she made.
- Monzo have pointed to the name on the document being different to that on the website and social media. I agree with our investigator that it is not unusual for companies to have more than one name. They have said that the Companies House website says that trading names should not include limited or LTD as the scam company appeared to – but I do not think this is common knowledge and it does not seem to appear on the webpage when you look up a company. From what I can tell, it appears in a blog page on the Companies House website – a page I would not expect most customers looking for somewhere to stay to be particularly familiar with.
- So in conclusion, I do not think the document or its contents would impact her reasonable basis for believing she was dealing with a legitimate company.
- Monzo have argued that it is unusual to pay for such services through a faster payment, and they would have expected her to make the payment either through PayPal or as a card payment. Faster payment is legitimately used for these purposes, and whilst other payment options are available I don't think it is sufficiently unusual to pay by faster payment for this to have any bearing on her belief she was dealing with a legitimate company.

On balance, I am satisfied that when considering all of the circumstances, Mrs A's decision to make the payments was not unreasonable. I believe that Mrs A believed she was dealing with a legitimate company and she wanted to ensure she had accommodation ready for her time in London, and she had rented properties in the same way before without issue. Mrs A was not alive to the possibility she was dealing with a fraudster and this is another reason why I don't think she acted unreasonably by engaging with the fraudster and making the payments.

With all of the above in mind, in light of all the circumstances here, and in line with the requirements of the CRM Code, I am not satisfied Monzo has been able to establish that when Mrs A sent the payments she did so without a reasonable basis for belief.

I would also like to note we consider each complaint individually on its merits. And in this case, the final decisions referred to by Monzo were both international payments which means that the CRM code would not apply to them as it does in this case – so our reasoning and considerations in these cases would not be the same as those applied to this case. So, the decisions they have referred to do not have any impact on my thinking in this case.

### **Putting things right**

The Code explains that where a customer has met their requisite level of care (which as I have explained, I am satisfied was the case here) they should be refunded all of the money that was lost. So I think it is fair that Monzo Bank Ltd should:

- Refund the £2,750 lost as the result of the scam – minus the sums recovered; and

- Pay 8% simple interest from the date they declined to refund Mrs A under the CRM Code until the date of the settlement.

**My final decision**

For the reasons set out above, my decision is that I uphold Mrs A's complaint against Monzo Bank Ltd and order it to pay the redress I have indicated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 26 October 2022.

Katherine Jones  
**Ombudsman**