DRN-3574037

The complaint

Miss M is unhappy that Monzo Bank Ltd ("Monzo") won't refund her the money she lost after she was the victim of a scam.

What happened

In 2021, Miss M used an online sales website hoping to sell a second-hand pram for £500. Shortly after posting an advertisement on the site, Miss M was contacted by someone who said they were interested. Unfortunately, we now know this person to be a fraudster but at the time, Miss M said the buyer came across as genuine - and a sale was ultimately agreed.

A few days later, the buyer got in touch again and told Miss M they'd transferred the funds to an account she held with a payment services platform which, for the purposes of this decision, I will refer to as "Company P". Miss M was told that in order for Company P to authorise the transaction, Miss M would need to be pay for transport fees which amounted to £300. The buyer explained that she wasn't able to collect the pram and so had arranged for Company P to deliver it to her instead which is why this additional cost had been incurred. Miss M has told us that this didn't raise any alarms bells at the time as she thought she was dealing with a genuine buyer.

On 23 March 2021, Miss M received an email from someone claiming to be an 'introducer' at Company P. Miss M said she compared the email address to genuine Company P email addresses, and it looked the same. The introducer confirmed that the buyer had made a payment of £800 to cover the cost of the sale and the transportation costs and all Miss M had to do was transfer the £300 upfront and the payment would be released in full. Miss M then made this payment to an account held by a third party who's name she did not recognise – the account wasn't held in the name of Company P or in the name of the buyer she thought she was dealing with.

On the same day, Miss M received a further email, again purportedly from Company P. This time the email said Miss M would need to pay a further £350 for insurance which Company P had previously forgotten to add. Again, Miss M was told the buyer would cover these costs once the transaction had been authorised. The next day Miss M confirmed the payment had been made.

The next day Miss M received another email confirming her Company P account had been credited but a mistake had been made and she had been over-paid by the buyer. Miss M was told that she would need to re-pay the difference to the buyer before she could receive her funds. At this point, Miss M realised that something wasn't quite right, and she contacted the genuine Company P who informed her that she had mostly likely been the victim of a scam. At this point, Miss M contacted her bank, Monzo.

Monzo completed an investigation into what had happened to Miss M but ultimately declined to offer her a refund. It said Miss M had no reasonable basis for believing what she had been told by the buyer/Company P and should've completed further checks before proceeding to make the payments. Monzo said there were a number of inconsistencies in what Miss M had been told – including that she had somehow been overpaid. Monzo also pointed out that warnings about scams had been presented to Miss M during the payment process for the first payment but Miss M had proceeded with the payment regardless.

Unhappy with Monzo's response, Miss M brought her complaint to this service and one of our investigators looked into things.

Our investigator didn't uphold the complaint as she wasn't persuaded Miss M had a reasonable basis for believing she was paying a genuine person for genuine goods or services – she didn't think the story Miss M had been told by the fraudster was plausible – she thought that Miss M having to send money in order to receive payment was suspicious and should've prompted further checks by Miss M. She also said that she didn't think either of the payments sent by Miss M were significant or unusual enough to have been flagged by Monzo's security systems prior to them leaving Miss M's account. And so, she didn't ask Monzo to offer Miss M a refund.

Miss M disagreed. She said the payments were significant to her and the scam had taken a toll on her mental health as well as her finances.

As an agreement has not been reached, Miss M has asked for the matter to be referred to an ombudsman.

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 broad terms, the starting position is that a payment service provider is expected to process payments that its customer authorises, in accordance with the Payment Services Regulations (PSRs), which apply to this complaint, and the account terms and conditions. But where a customer made a payment as a result of the actions of a scammer, it may sometimes be fair and reasonable for a payment service provider to reimburse its customer, even though the payment was authorised.

Under the Lending Standards Board's Contingent Reimbursement Model ("the CRM code"), payment service providers should reimburse customers who are victims of authorised push payment scams, such as this one, except in limited circumstances.

Monzo isn't a signatory to the CRM code but it has agreed to act in the spirit of it and so when considering this complaint, I have taken account of whether Monzo ought to have reimbursed Miss M under the provisions of the CRM code, and whether it ought to have done more to protect her from potential financial harm from fraud. The code also places a level of care on Miss M, and so I have considered whether she met this level of care too.

The CRM Code

The CRM requires payment service providers to reimburse customers who have been the victims of authorised push payment (APP) scams like this, in all but limited circumstances. It is for Monzo to establish that a customer failed to meet their requisite level of care under one, or more, of the listed exception set out in the CRM if they decline to reimburse.

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, but these aren't applicable here.

Did Miss M have a reasonable basis for belief?

Under the CRM, Monzo can choose not to reimburse Miss M if it doesn't believe she took the requisite level of care to ensure she had a reasonable basis for believing that the person/business she was paying was legitimate and for genuine goods or services. It isn't enough for Miss M to believe that she was paying a legitimate person/business for genuine goods or services, she had to have *a reasonable basis* for that belief.

Miss M has said that during her conversations with the buyer she didn't have any doubts that what she was being told was true. I have no reason to disbelieve Miss M and it's clear that she trusted what she was being told. However, I'm satisfied that there were a number of things about what Miss M was being told that should've fairly and reasonably caused concern. I'll explain why.

Miss M was told that the two payments she made were to pay for transport and insurance costs. But the combined total of these costs amounted to more than the cost of the pram itself and therefore presumably, they amounted to significantly more than it was worth. I think Miss M should've questioned why the buyer was apparently willing to spend more on transport and insurance costs than the pram was worth.

I also think that the fact that Miss M was being asked to send money in order to receive money should've caused some concern here. Miss M was the seller in the transaction. If any money was exchanging hands, it should've been sent to her, not the other way round. In addition to the above, Miss M had been told that funds had been sent to her Company P account. But had Miss M checked her balance with Company P she would've seen that no amount was cleared or pending and so there was nothing on the face of it to validate what she had been told. Payments into this type of account are usually credited immediately.

I also think it should've appeared suspicious to Miss M that she was required to make payment to an account that didn't appear to be related to Company P or in the name of the supposed buyer. All of the above should've rang alarms bells for Miss M and I'm persuaded that she should've taken further steps to verify what she had been told before she proceeded to make any payments.

I acknowledge what Miss M has said about thinking that she was genuinely speaking with Company P but it's unclear why she thought Company P would be actively involved in the sale of a second-hand item, arranging insurance and transport costs when this is not a service they provide. It's also unclear what the role of an 'introducer' was supposed to be. Having read the emails shared between Miss M and who she thought was Company P, it's clear they also contained a number of typographical and grammatical errors that I would not expect from a legitimate organisation.

Overall, I'm persuaded that what Miss M was being told by the seller was suspicious enough to have prompted further questioning. But I haven't been provided with any evidence to show Miss M carried out any sort of due diligence or that she attempted to verify what she was being told before deciding to send her money. It doesn't appear that Miss M thought about the amount she was sending in relation to the original cost of the pram or that she took any steps to verify what she was being told by Company P prior to her contact with the genuine Company P about the request for the third payment.

So, whilst I acknowledge that Miss M was ultimately persuaded by what the fraudster had told her, I'm satisfied that she ought reasonably have carried out more checks before making the payments – there were a number of red-flags here that should've reasonably given some cause for concern. So, having taken everything into account, I'm satisfied Miss M should've done more to ensure that what she was being told by the buyer was genuine before she sent money to them in order to meet the required level of care under the CRM Code. Had she done so, I don't think she would've proceeded to make the payments. And so, I can't fairly say that met Miss M met her requirements under the CRM Code, and I think this made a difference here.

Is there anything further Monzo could've done to help Miss M

I've also considered whether there was anything further Monzo could've done in order to help Miss M, but I don't think there was.

The CRM Code sets out that where firms identify a scam risk, they should provide effective scam warnings to their customers. In this case, Monzo should also have had systems in place in place to look out for unusual and out of character transactions or any other signs that might indicate that its customer was at risk of financial harm from fraud. However, the payments Miss M made were largely unremarkable and for relatively small amounts – separated by a day and leaving her with a balance remaining. And so, I'm not persuaded that it would be fair and reasonable for me to say that Monzo should've identified the payments as potentially fraudulent at the time.

I want to stress here that I am not saying that the payments were insignificant for Miss M. I have no doubt the loss of these funds has had a significant financial impact on Miss M but this isn't enough for me to say that Monzo should offer her a refund now. I'm not persuaded that there was anything about the payments at the time that meant Monzo should've been able to identify them as potentially being made as a result of fraud.

Finally, I want to say how sorry I am to hear about the circumstances Miss M has found herself in as a result of this scam. It is a cruel scam, one that relies on the good nature of its victim. But I don't think it would be fair and reasonable of me to conclude that her losses have been caused by any particular failing by Monzo, the fault here lies with the cruel and callous actions of the fraudsters themselves.
For the reasons set out above, I won't be upholding this complaint.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint about Monzo Bank Ltd and I won't be asking it to do anything further.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 24 August 2022.

Emly Hanley
Ombudsman