

## The complaint

Miss A complains that Monzo Bank Ltd won't refund the money she lost when she was the victim of a scam.

## What happened

Miss A was looking to buy a new phone and saw one she was interested in listed on an online marketplace. She spoke with the seller to check the specifications of the phone and negotiate a price. The seller then told her she had to pay using her online banking, so she made a payment of £400 to the bank account details she was given.

Unfortunately, we now know the seller was a scammer. Miss A says the seller stopped communicating with her once she'd made the payment and deactivated their profile on the online marketplace. Miss A then contacted Monzo to report the payment.

Monzo isn't a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code) but has explained it is committed to applying the principles set out in it. The CRM code requires firms to reimburse customers who have been the victims of authorised push payments scams, except in limited circumstances. Monzo investigated Miss A's case but said one or more of the exceptions to reimbursement applied. It said Miss A had made the payment without a reasonable basis for believing it was for genuine goods, and had ignored the warning shown to her when she made the payment. So it said she wasn't entitled to a refund under the CRM code. Miss A wasn't satisfied with Monzo's response, so referred her complaint to our service.

I sent Miss A and Monzo a provisional decision on 15 July 2022 to explain why I wasn't intending to uphold the complaint. An extract from my provisional decision is set out below:

*"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. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer 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 Miss A under the provisions of the CRM code and whether it ought to have done more to protect her from the possibility of financial harm from fraud.*

## The CRM code

*As I mentioned above, Monzo has committed to follow the Lending Standards Board Contingent Reimbursement Model (the CRM code) although it isn't a signatory. 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. And it is for the*

*firm to establish that a customer failed to meet their requisite level of care under one of the listed exceptions set out in the CRM code.*

*Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:*

- 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:*
  - o the payee was the person the customer was expecting to pay;*
  - o the payment was for genuine goods or services; and/or*
  - o the person or business with whom they transacted was legitimate*

*There are further exceptions within the CRM code, but these don't apply here.*

*Did Miss A have a reasonable basis for belief?*

*This was clearly a cruel scam and I'm sympathetic towards Miss A's position. But I need to consider not just whether she believed the goods she was buying were genuine, but whether it was reasonable for her to do so.*

*The make and model of phone Miss A was trying to buy is usually listed with traditional retailers at more than twice the price she agreed to pay for it. So it appears the advert she was responding to was advertising the phone at significantly below market value. And I think this should have caused Miss A significant concern about the legitimacy of the seller and whether the phone was genuine.*

*Miss A says she saw other adverts for similar or cheaper prices. But the only examples she's been able to send us are for different models of phone. And all the examples are from the same online marketplace. So I don't think these examples are reliable evidence that the phone was legitimately available at the price Miss A agreed to pay.*

*Miss A also says she spoke to the seller to check the specifications of the phone and looked through reviews of the seller's account on the online marketplace. But she doesn't appear to have asked for any proof that the seller actually had the phone or for any explanation of why they were selling it for significantly below market value. So I don't think these checks were enough to counter the concerns about the price.*

*And so I don't think Miss A did have a reasonable basis for belief that the payment was for genuine goods.*

*Did Monzo meet its obligations under the CRM code?*

*Even though I don't think Miss A had a reasonable basis for belief when making the payment, she may still be entitled to a refund of 50% of the money she lost if Monzo didn't meet its obligations under the CRM code – one of which is to provide effective warnings.*

*The CRM code says that, where firms identify APP scam risks, they should provide effective warnings to their customers.*

*But the payment Miss A made wasn't for a particularly large sum of money, wasn't particularly unusual in comparison to her usual account activity and didn't leave the balance of her account in a particularly unusual position. So I don't think Monzo should have identified a scam risk in relation to this payment and I don't think Monzo was required to provide an effective warning in relation to it.*

*So I don't think Monzo failed to meet its obligations under the CRM code.*

*Should Monzo have done more to protect Mr F?*

*In addition to its responsibilities under the CRM code, when Miss A 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). But for the same reasons I don't think it had to provide an effective warning for this payment, I don't think it should have identified that Mr F could be at risk of fraud as a result of it either. So I don't think anything Monzo could reasonably have been expected to do could have prevented Miss A losing her money.*

*Recovery*

*I've also considered whether Monzo could have done more to try to recover the money once it had been told of the scam. We'd expect a business to take reasonable steps to try to recover the money from the bank it was sent to. But Monzo has shown us it emailed the bank the money was sent to once it was told of the scam, and chased it a couple of weeks later. But it hasn't received a response. So I don't think Monzo could reasonably have done more to try to recover the money."*

I said I'd consider anything further Miss A and Monzo sent in following the provisional 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.

Monzo replied to the provisional decision, saying it had nothing further to add. And Miss A didn't respond to the provisional decision by the deadline given.

As neither Miss A nor Monzo provided any further information to be considered, I still think the conclusions I set out in the provisional decision are correct, and for the same reasons.

I therefore still don't think anything Monzo could reasonably have been expected to do could have prevented Miss A losing her money, or that Monzo could reasonably have done more to try to recover the money. So I don't think it would be fair to require Monzo to refund the money Miss A lost.

### **My final decision**

I don't 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 13 September 2022.

Alan Millward

**Ombudsman**