

The complaint

Mr M complains that Monzo Bank Ltd won't refund two payments he made from his bank account.

What's happened?

Mr M says he agreed to purchase seven PlayStations for a price of £2,700 from a trusted seller he had previously successfully transacted with. He says he has mutual contacts with the seller and met him in person when he hand-delivered goods he'd purchased to his address.

Mr M made two deposit payments to the seller by bank transfer – he paid £550 on 4 December 2020 and £500 on 7 December 2020 ('the payments'). But the seller said they never received the PlayStations from their stockist and they eventually cancelled Mr M's order without refunding the payments. Initially, the seller told Mr M they would refund him when they received a refund from their stockist, then they said their bank account was frozen so they couldn't refund Mr M.

Mr M contacted Monzo for help on 16 December 2020. Monzo contacted the receiving bank on the same day, but it was advised that none of Mr M's funds remained in the beneficiary account to recover. Monzo has said that it won't refund Mr M because this matter is a civil dispute, and he didn't take enough steps to check what he was paying for.

Mr M referred a complaint about Monzo to this Service, and our investigator upheld his complaint. But Monzo didn't agree with our investigator and Mr M's complaint was passed to me to decide.

My provisional decision

I issued my provisional decision on 12 July 2022. I'll set out my findings below.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulator's rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Having looked at everything, I can see no basis on which I can fairly require Monzo to refund the payments. I realise this will be disappointing news for Mr M, and it isn't the outcome he'll be hoping for, but I'll explain my reasoning below.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

When Monzo made the payments, it was complying with Mr M's instructions to pay the seller, as it is obliged to do. And considering the relatively low value of the payments, as well as the usual activity on Mr M's accounts, I wouldn't have expected Monzo to intervene with the payments in any way. So, I don't think Monzo acted incorrectly by making the payments

and it wouldn't be fair to ask it to refund them on this basis. I've considered whether Monzo should refund the payments for any other reason, but I don't think it should.

Monzo isn't yet a signatory of the Lending Standards Board's Contingent Reimbursement Model ('CRM Code'), but it's allowed us to apply the CRM Code's principles to complaints we consider against it which meet the relevant criteria.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who has been the victim of an Authorised Push Payment ('APP') scam. But the CRM Code is quite explicit that it doesn't apply to all APPs. It says:

"DS2(2) This Code does not apply to:

(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

I understand why Mr M feels he has been scammed, but from what I've seen, I don't think I can fairly say that the situation Mr M finds himself in is a scam, although I accept and acknowledge that he hasn't received the goods he paid for. I think the payments form part of a civil dispute between Mr M and the seller. I say this because the seller is someone Mr M knows and has met in person (it's unusual for fraudsters to meet their victims face-to-face) and the seller has previously successfully fulfilled orders Mr M has placed. In the circumstances, I don't think it's likely that the seller was operating a scam, or that they intended to defraud Mr M from the outset – by taking his money with no intention of supplying the goods he desired – and I haven't seen any persuasive evidence to support this. I understand that Mr M's order wasn't fulfilled in the end, but I think it's most likely, looking at everything, that the seller intended to fulfil his order when it was placed – and this isn't the same thing as a fraudster pretending to have goods to sell in order to trick victims into parting with their money with no intention of fulfilling their order.

Mr M has said that the police are investigating a criminal case against the seller and I accept that this may be true, particularly as the money he paid the seller hasn't been returned to him. But I'm not persuaded it follows that the seller never intended to provide the goods Mr M paid for and, as I've set out above, I don't think that's likely.

Overall, I'm satisfied that the available evidence shows Mr M paid a legitimate business for an order which unfortunately wasn't fulfilled or refunded. As such, I don't think Monzo is responsible for reimbursing Mr M because of any obligation under the CRM Code.

Mr M has my sympathies. He's found himself in an unenviable situation. But overall, I'm not satisfied that there has been a bank error in this case. I can't see any fair or reasonable grounds on which I could say that Monzo should bear the responsibility of Mr M's loss.

For the reasons I've explained, I've provisionally decided not to uphold this complaint.

Responses to my provisional decision

Neither Mr M nor Monzo responded to my 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.

As neither party has provided any new information or evidence for me to consider, I see no

reason to depart from the conclusions set out in my provisional decision.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 September 2022.

Kyley Hanson
Ombudsman