

The complaint

Mr C complains Monzo Bank Ltd (“Monzo”) refuse to refund him two transactions he didn’t authorise.

What happened

In February 2022, just before midday, two transactions amounting to £900 were made from Mr C’s account to the same retailer. The transactions were both made using a well-known payment method on a mobile phone device.

To keep matters simple, I will refer to this payment method as “MP” in the rest of the decision.

Mr C says he was called from an anonymous telephone number several time before the transactions were made by someone purporting to be from Monzo. He says he was told to delete his Monzo banking app from his mobile phone as there was fraudulent activity taking place on his account.

Mr C says he did this, after which he attempted to download his Monzo banking app again. He says that once he was able to do this in around 15 minutes, he noticed his account had been debited twice for payments he didn’t authorise.

Mr C says he froze the card on the banking app and made Monzo aware immediately. He says he later drove some three hours to the retailer where these payments were made. Mr C was able to get a picture and CCTV footage of the fraudster carrying out the transactions. He says this is evidence enough that he’s been the victim of fraud. Mr C also reported the matter to the Police.

Monzo looked into Mr C’s claim and didn’t uphold the resulting complaint. In its response, amongst other things, Monzo said it had reason to believe the transactions weren’t fraudulent.

Unhappy with what Monzo said, Mr C referred his complaint to this service. One of our Investigator’s looked into the matter, and in summary they found:

- Monzo has shown the payments were correctly authenticated
- Mr C consented to the payments because he said he didn’t share any information with the person who called him, but just deleted his mobile banking app. But the evidence shows the MP was approved to be used through Mr C’s registered mobile device. As Mr C didn’t share his details, and no one else had access to his mobile at the time, its more likely than not he approved the MP himself from his app
- Mr C was sent a text message by Monzo around 30 minutes before the first transaction took place. This should have prompted Mr C to act sooner if he had not set-up the MP

Monzo agreed with our Investigator, but Mr C does not. He says he has given this service

lots of evidence to show he was the victim of fraud – and the CCTV footage is in of itself enough to demonstrate this.

Our Investigator responded that they had watched the CCTV, and considered all the evidence, but they were still unable to explain how an unknown third party was able to approve the MP through his registered mobile device.

In summary, Mr C then made the following points:

- He deleted the app as requested as he thought it was genuinely Monzo calling him
- The fraudster is clearly of a different ethnicity and is visibly so different in how they look. To demonstrate this Mr C has sent in his passport and driving licence
- The CCTV evidence shows the fraudster made the payments. When you use the phone's face identification technology this doesn't require app authorisation to make purchases – and the CCTV footage shows it clearly wasn't him making the purchases
- The two transactions are not in line with Mr C's account behaviour
- He was not in the vicinity of where the fraud happened. He was at work
- When reporting this to the Police they commented this was blatant fraud

Our Investigator said they agreed the person in the CCTV wasn't Mr C. But that they're unable show the MP device was approved by Mr C's mobile app on his known device given he said he didn't approve or click any link.

It follows Mr C's complaint has now been passed to me – an Ombudsman – to decide.

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 that, I've decided to not uphold this complaint. I note how strongly Mr C feels about this, and no doubt my decision will disappoint him – so, I'll explain why.

This is a finely balanced complaint. Where matters are like this, and where there is inconclusive or missing evidence, I can reach my decision on what I think is most likely to have happened - the balance of probabilities.

In short, Monzo is required to refund the amount of an unauthorised transaction. The relevant regulations, to this effect, are the Payment Services Regulations 2017 (the PSRs 2017). Mr C says he never made, nor authorised, two payments to an off-licence – so he wants them refunded.

I'm satisfied from Monzo's technical evidence Mr C's genuine card details, which were approved on his mobile device for a new MP to be made functional, were used to make the disputed transactions. And they were done so in the correct form, and in line with Monzo's processes.

But the regulations relevant to this case say that is not, on its own, enough to enable Monzo to hold Mr C liable. So I also need to think about whether the evidence suggests it's more likely than not Mr C *consented* to the payments being made.

Broadly speaking, I need to consider three possibilities here: (i) Mr C did not consent to the payments (ii) Mr C carried out the payments himself; and (iii) Mr C authorised someone else to use his details on a MP.

I've watched the CCTV footage Mr C has given this service and I've closely reviewed the identification documents he's sent in for himself. Having done that I'm satisfied the two people are different.

Mr C also says he was at work when the transactions were made. It also appears the date and time of the video footage is indicated by the proprietor of the shop by taking a handheld video of the date from the computer's calendar. The time is shown by a clock in the off-licence from the video footage itself. I'm happy to accept this is likely to be an accurate representation of the date and time the CCTV video was filmed. Though I can't be entirely sure given the video isn't time stamped itself in the conventional way.

So, with that in mind, I think it's most likely Mr C didn't carry out the transactions himself.

That brings me onto whether Mr C most likely authorised someone else to carry out the transactions by using a MP set-up with his agreement. Mr C says he deleted the banking app as instructed by someone pretending to work for Monzo shortly before the transactions were carried out. He's been clear and consistent he didn't approve a new device to be used under his account through a MP mechanism.

Monzo say that for a new device to be used and set-up under Mr C's account he would have had to authorise it through his app. Monzo have given me information which shows Mr C was in his app - on his registered device - at the time the other MP device was approved.

Given Mr C has been consistent he didn't approve a new device to be enabled with MP under his account, I can't see how these transactions were made without that. So I find myself at a real quandary as to how the transactions were made unless Mr C approved the new device.

Without a plausible explanation to the contrary, and based on what Mr C's told us, I think it's more likely he consented to the transactions by authorising someone else to carry them out. This means he most likely authorised them.

Mr C feels strongly we've not put enough weight on the evidence he has provided to show it wasn't him that carried out the transaction in the off-licence. As I've said, I agree that's the case here, but for the reasons above, I think he's most likely given someone else authority to make those transactions. I can't of course be sure, but based on the evidence I've been presented with, I'm persuaded, on balance, that is what most likely has happened.

Mr C's phone SMS records also show he was sent a text message around the time he was in his app - presumably before deleting it - which said his card details had been successfully used to set up a MP. Given Mr C was accessing his app around this time on his device, I think this is something he ought to have acted on if he wasn't authorising the payments. At the very least it ought to have made him aware sooner something wasn't quite right.

Mr C has said the payments were so out of character that Monzo should have done more to protect him from financial detriment. Monzo say that as the MP requires additional authentication its systems wouldn't have flagged these transactions. I can understand this,

but given I think Mr C most likely authorised these payments, this isn't something I need to look into further.

In conclusion, after weighing everything up, I'm persuaded Mr C most likely authorised the two transactions he disputes.

My final decision

For the reasons I've given above, I don't uphold this complaint.

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

Ketan Nagla
Ombudsman