

The complaint

Miss Y complains that Monzo Bank Ltd (Monzo) won't refund transactions on her account which she didn't make.

What happened

The details of this complaint are well known to both parties. So rather than repeat them all again here, I'll briefly summarise the key points.

Miss Y has explained that she fell victim to a scam. She received a call from someone claiming to be from Monzo's fraud protection team, informing her that there had been attempted fraud on her account. They directed her to follow the instructions she received via an in-app notification, saying it was necessary to verify that the app was still working.

Miss Y then saw two payments for £200 and £250 leave her account. When she reported this to Monzo, it said she was liable for these payments as she'd authorised them by agreeing to set up an Apple Pay token. It's since told us that it's holding her liable as she failed to adequately verify who she was speaking to when the scammer called her.

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 so, I agree with the conclusions reached by the investigator for these reasons:

- In line with the Payment Services Regulations 2017 (PSRs), Miss Y isn't liable for payments she didn't authorise, unless she failed with gross negligence or intent to comply with the terms of the account or keep her personalised security details safe.
- The PSRs specify that authorisation depends on whether the payment transactions were authenticated correctly – and whether the account holder consented to them. It's not in dispute that the payment was properly authenticated.
- The PSRs go on to state how consent is given. It must be in the form, and in accordance with the procedure, agreed between the payer and the payment service provider. In other words, Miss Y consents if she completes the agreed steps to make a payment. Or if someone else acts on her behalf and uses those agreed steps.
- My understanding is that, to make these payments, the scammer first entered Miss Y's Monzo card details into an Apple Pay app. She was then sent a notification which required her to enter her PIN. The scammer then used Apple Pay on their device to make the payments in a shop.
- We don't know how the scammer got hold of Miss Y's card details. But I've seen no suggestion that she shared these. Unfortunately, card details can be stolen in a myriad of ways. So it's plausible and credible that an unauthorised person was able

initiate the Apple Pay request and then use it to complete these transactions.

- Miss Y contacted the shop in which the payments were made, and they told her they had CCTV of a man completing the transactions. I can't see that Monzo has disputed that someone other than Miss Y initiated the Apple Pay set up and then made the payments in-store.
- So the only step Miss Y completed was entering her PIN to set up Apple Pay. She didn't complete the remainder of the steps involved in authorising these payments. Nor did she enter her PIN with the intention or understanding that she was granting someone else authority to make payments. I therefore find them to be unauthorised.
- I don't find that Miss Y *intentionally* failed to keep her account or security details safe. I've seen no suggestion that she shared her card details. And she only entered her PIN in her own app. She didn't think this would put account at risk – rather, she was told it was necessary to *protect* her account from attempted fraud.
- I don't find that Miss Y failed with gross negligence either. From what we've been told, it seems the scammer knew personal information about Miss Y which helped them impersonate Monzo more convincingly.
- The scammer told Miss Y her account was at risk, creating pressure and urgency. It told her to check her app to verify whether she recognised a payment from that morning. And she could see an active card check by the retailer the caller had mentioned. So this again helped persuade her to trust the caller.
- The call did come from a private number, rather than an official Monzo number. But in the context of being worried that her money was being stolen, and given the reasons Miss Y has given for why she trusted the caller, I don't think she *seriously* disregarded an *obvious* risk in following the instructions she was given.
- Monzo says Miss Y ought to have questioned why she needed to complete a link to set up Apple Pay to verify that her mobile app was still in her control. I understand the point it's making, but I still don't think her actions were *significantly* careless.
- Miss Y had been instructed to expect a notification. Although it mentioned Apple Pay, that was only on one screen, where she selected 'Add Card'. It didn't specify which device this was being added to.
- In the circumstances of being concerned her account was at risk, this would have all happened quickly. We know scammers use pressure and social engineering to persuade people. Miss Y didn't have much time or opportunity to reflect on what she was being asked to do by who she thought was a trustworthy party.
- Taking this all into account, I don't think Miss Y's actions fell *so far below* what a reasonable person would have done that she failed with *gross negligence*. I therefore find that Miss Y isn't liable for these payments.
- In line with its obligations under the PSRs, Monzo should have promptly refunded Miss Y for these unauthorised transactions. Its failure to do so caused her additional worry and upset. For example, she's told her that was worried about how she would pay her rent without these funds. To address this, I consider it fair for Monzo to pay her £100 compensation.

Putting things right

To put things right, Monzo Bank Ltd must:

- Refund Miss Y for the unauthorised transactions, totalling £450;
- Pay 8% simple interest per year on this amount from the date of payment to the date of settlement (less any tax lawfully deductible) to compensate Miss Y for the loss of use of these funds; and
- Pay Miss Y £100 compensation for her distress and inconvenience

My final decision

For the reasons I've explained, I uphold this complaint. I direct Monzo Bank Ltd to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Y to accept or reject my decision before 2 March 2023.

Rachel Loughlin
Ombudsman