

The complaint

Mr R is unhappy that Monzo Bank Ltd won't refund the money he lost after falling victim to a scam.

What happened

Mr R says he was looking for a pet. He went online and via a known advertising website came across an advert for puppies for sale. Mr R contacted the seller via the advert. Mr R and the seller then spoke with each other via a messaging app and Mr R says he had phone calls with the seller too.

Mr R explained in one call with the seller he asked him to confirm the puppies were available and, that this call was also so he could hear the sellers voice - so he knew he was dealing with a real person. Mr R says he recalls hearing dogs in the background during this call. Mr R says after coming off this call he checked the address he'd been given and saw it was a legitimate address.

Mr R was sent a video and some pictures of the puppies for sale. Mr R also says the advertising website used was well known and people he'd talked to beforehand had said it was where they'd also got their pets. Mr R also added that there were many positive reviews online about the website he found the advert on.

Mr R has provided chat messages between him and the seller. In these Mr R asked the seller if he could arrange a visit to pay a deposit and see the puppy he wanted to purchase. He was informed by the seller that he was only available for viewings at the weekend. A visit was arranged with the seller for the coming weekend, which was within two days' time of this contact.

Mr R was told by the seller that he works on a first come first serve basis. Mr R enquired about paying a deposit via a well-known payments system, in order to reserve a puppy. He was told the payments system didn't cover pet sales but that a payment could be done via bank transfer and an electronic invoice would be provided by email.

Mr R was provided with the bank details for the deposit and proceeded to make a payment of £300 via his Monzo account. Mr R says he called the seller back after making the payment to make sure he sent the confirmation of what was agreed, which Mr R says he received.

On 27 February 2021, Mr R visited the address he'd been given to collect the puppy. Mr R has told us that whilst the address existed, the property appeared to have been vacant for a long time.

The same day, Mr R contacted Monzo to let it know that he'd been the victim of a scam. It contacted the beneficiary bank to let it know a scam has been reported.

Monzo considered whether it should refund Mr R for his loss but declined his claim. It didn't think Mr R had taken enough steps to check who he was paying and what for. It feels Mr R

didn't do enough to verify that the seller was genuine. Monzo has commented that being sent photos of the puppies and speaking to the seller over the phone, isn't clear evidence that the puppies existed or that the seller owned the animal. Monzo has further added that the website where the puppies were advertised advises to exchange cash in person for purchases.

Monzo said it reached out to the beneficiary bank for an indemnity, but that it didn't receive a response.

Mr R remained unhappy with Monzo's response and so brought his complaint to this service.

One of our Investigators looked into Mr R's complaint and thought it ought to be upheld. She didn't believe Monzo had fairly assessed Mr R's claim under the Contingent Reimbursement Model CRM Code (the CRM Code) and said it hadn't been able to establish that Mr R made the payment without a reasonable basis for believing he was making a legitimate purchase from a legitimate seller.

As Monzo disagreed the case has been referred to me for a final 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

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. There's no dispute here that Mr R authorised the payment.

However, where a customer makes a payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer 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 Mr R in line with the provisions of the CRM Code it has agreed to adhere to and whether it ought to have done more to protect Mr R from the possibility of financial harm from fraud.

There's no dispute here that Mr R was tricked into making the payment. He thought he would receive a puppy in exchange for his money and this wasn't the case. But this isn't enough, in and of itself, for Mr R to receive a refund of the money under the CRM Code. The Code places a level of care on Mr R too.

The CRM Code

Monzo has agreed to adhere to the provisions of the CRM Code which 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.

It is for Monzo to establish that a customer failed to meet a requisite level of care under one or more of the listed exceptions set out in the CRM Code.

Those exceptions are:

- Mr R ignored an “effective warning” in relation to the payment being made.
- Mr R made the payment without a reasonable basis for believing that: the payee was the person he was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom Mr R transacted was legitimate.

There are further exceptions within the CRM Code, but they do not apply in this case.

Taking into account all of the circumstances of this case, including the characteristics of the customer and the complexity of the scam, I’m not persuaded the concerns Monzo has raised about the legitimacy of the transaction Mr R was making are enough to support its position that he failed to meet his requisite level of care under the CRM Code for the payment he made. It follows that I don’t think Monzo has been able to establish that it may choose not to reimburse Mr R under the terms of the CRM Code.

Having carefully considered what both Mr R and Monzo have said and provided, I’m persuaded Mr R had a reasonable basis for believing the payment he was making was for a genuine puppy and that the person he was transacting with was a legitimate seller. I have reached this conclusion, when thinking about what it is realistic to have expected Mr R to do when he was paying a deposit of £300.

Did Mr R have a reasonable basis for belief?

Having considered Monzo’s arguments carefully, I don’t find them persuasive. I think Mr R took enough care with a relatively modest deposit of £300 to say he had a reasonable basis for believing he was buying a puppy from a genuine seller. I say this because:

- Mr R found the advert for the puppies for sale via a known advertisement website. He’s told us he saw many positive reviews online about the advertising site and alongside this, he’s told us others he talked to beforehand/friends had also used the website to buy their pets. I think this would have been reassuring to Mr R. Monzo has indicated that it doesn’t consider this point relevant to this case. That said, it has commented that the site is not a merchant but a place where anyone can go and sell items. It adds that whilst one seller may be genuine this doesn’t mean another is because they are advertised on the same website. I’ve thought carefully about this, but on balance, I’m persuaded Mr R’s interaction with others who said they’d used the site to buy their own pet, alongside the positive reviews about the advertising website in general would have provided him with a reasonable degree of reassurance at the time. And this, combined with the other aspects I’ve detailed below, reasonable led Mr R to believe that he was buying a puppy from a genuine seller.
- Mr R spoke with the seller by phone to check the puppies were available and, because he wanted to hear the sellers voice to know that he was dealing with a real person. I recognise Monzo has said Mr R should have at least had a video call with the seller to see the dogs. But I don’t find the absence of a video call means Mr R hadn’t take enough steps to check who he was paying. Mr R says didn’t have a video call, as he spoke with the seller by phone, was sent a video and photos of the puppies. He’s also told us that during the call with the seller he heard dogs in the background. While I accept none of these steps taken by Mr R were conclusive

proof, I'm satisfied the evidence indicates he took a number of steps to validate the seller and the puppies. And I think these steps were proportionate to the transaction he was making.

- Mr R and the seller had arranged for him the visit the coming weekend (within two days of their contact) for him to pick up the puppy. Mr R has said he planned to pay the remaining amount for the puppy in cash at this visit. Mr R was provided with an address which he checked, and saw was genuine. I think it reasonable that this would have reassured and convinced Mr R that this was a genuine seller.
- Mr R needed to pay a deposit to reserve a puppy. He did ask the seller if he could make the deposit payment via a well-known payments system, but the seller told him that it didn't allow payments for pet sales. Mr R has told us that he paid the deposit for the puppy first as this is the process that is followed on selling sites to reserve a puppy. I don't think it unreasonable for Mr R to have paid a deposit. Mr R was told by the seller that he worked on a first come first serve basis and I think most people would expect to pay some kind of deposit in this type of sale. In asking if he could pay the deposit via the well-known payments system, Monzo has said it shows Mr R had attempted to act cautiously yet went ahead and paid the deposit by faster payment. I don't think it unreasonable of Mr R to have taken what he was told by the seller about being unable to make the deposit payment through the known payments system at face value. I say this as I don't think the payments system Mr R enquired about would commonly and more widely be known as one that is used to buy goods such as pets. So, I'm not persuaded he missed a red flag here.
- Mr R communicated with the seller in various ways – via the advertisement website, via the messaging app and by phone call. The advertising website is well-known and the overall price he was due to pay for the puppy was broadly in line with similar puppies of the same breed he'd seen – so I don't think the situation was too good to be true.

In all, I think it reasonable that a purchaser should take steps proportionate to the purchase being made. When thinking about the circumstances of the deposit payment Mr R made here, I'm satisfied in light of the above, that he did enough. I don't think he missed any red flags that ought to have been readily apparent at the time he was making the payment that indicated there was a possibility he wouldn't get the puppy or that the seller was not genuine.

Monzo has raised the warnings on the website where the puppies were advertised and has highlighted that the website advises to exchange cash in person for purchases. As set out above, Mr R has said he paid the deposit for the puppy first as this is the process that is followed on selling sites to reserve a puppy and that he planned to pay the remaining amount due in cash when visiting the seller's home. Given the relatively modest deposit of £300, I find Mr R's actions to be proportionate and reasonable in the circumstances of this case.

Overall, I don't find Monzo has established Mr R didn't have a reasonable basis for belief that he was paying a legitimate person for genuine goods. This is because I don't think Mr R's actions fell below the level of care expected of him in this situation. I think Monzo ought to have fully refunded Mr R at the time he reported the loss and so it should fairly and reasonably compensate Mr R by refunding that loss now.

Should Monzo have done more to try and prevent the scam and protect Mr R?

I've thought about whether Monzo did enough to protect Mr R from becoming a victim of a scam. The CRM Code says that where firms identify APP scam risks in a payment journey, they should provide effective warnings to their customers. The Code also says that the assessment of whether a firm has met a standard or not should involve consideration of whether compliance with that standard would have had a material effect on preventing the scam.

At the time Mr R made this payment, Monzo should fairly and reasonably also 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).

Having thought about the payment Mr R made in this case, I don't consider this to have been a remarkable payment. The payment was relatively low in value and having looked at Mr R's account statements and previous account activity, I can see he'd made previous payments for similar amounts. I also don't find the fact that the payment was made to a new payee, in and of itself ought to have caused Monzo concern that Mr R might be at risk of financial harm from fraud at the time he made it. So, it follows that I don't think Monzo should have identified an APP scam risk in this particular case or that it needed to provide Mr R with an effective warning.

Despite this, Monzo has said a 'low friction warning' was shown. So I've considered whether seeing the 'low friction' warning at the time the payment was made should have altered Mr R's thought processes.

Having done so, I'm not persuaded the information within Monzo's 'low friction warning' should have led Mr R to further question what was happening and stop him from making the payment. I say this because, I don't think the warning makes the risk of falling victim to this particular type of purchase scam obvious. It doesn't cover the common features of this type of goods scam or bring to life what the type of scam Mr R fell victim to looks and feels like. And it doesn't explain in sufficient detail what Mr R could have done to protect himself from the scam he fell victim to.

In light of all the circumstances in this particular case, which includes the 'low friction warning' Monzo says it gave, I'm satisfied Mr R has met the level of care expected of him under the CRM Code. It follows that I'm not satisfied Monzo has established that it can fairly rely on the relevant exception to reimbursement under the CRM Code.

Putting things right

For the reasons I've explained, I'm upholding this complaint. Monzo Bank Ltd should now:

Refund the £300.00 Mr R lost as a result of the scam; plus pay 8% simple interest per year on this amount, from the date Monzo declined Mr R's complaint under the CRM Code to the date of settlement (less any tax lawfully deductible.)

My final decision

My final decision is that I uphold Mr R's complaint about Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 November 2022.

Staci Rowland
Ombudsman

