

## The complaint

Ms C is unhappy that Monzo Bank Ltd won't refund the money she lost after she fell victim to an 'authorised push payment' ("APP") scam.

## What happened

The background to this complaint is well-known to both parties, so I won't repeat it all here, But briefly, and based on the submissions of both parties, I understand it to be as follows.

Ms C saw an item for sale on a well-known social media online marketplace, that she was interested in buying. She contacted the seller, by way of messages, and asked if the item was still available. Ms C has said she believed the seller to be legitimate, as it had good reviews, she could see it was followed by mutual friends and the price the item was being sold for seemed reasonable.

Believing everything to be genuine, on 2 March 2022, Ms C went ahead and made a payment for £100 to the bank details provided by the seller. But after making the payment, the seller told Ms C that it hadn't received the payment. The seller told her that she'd need to make the payment again, but that the original payment would be returned to her. Ms C was also told at this point, that the seller would send her a complimentary pair of earphones and provide a discount on her next order.

Still believing things to be genuine, Ms C went ahead and made a further payment for £100. But over the course of the next few hours and into the following day, the seller continued to maintain that payments hadn't been received and persuaded Ms C to make further payments, for increasing amounts. Which she was told needed to be made, in order for her to get a refund. Ms C continued to make the payments as requested, but unknown to her at the time she was dealing with a fraudster and sending her money to accounts the fraudster controlled.

In total Ms C sent seven payments, totalling £4,600, to the fraudster. A breakdown of these payments is listed below:

2 March 2022 (12:38am)	£100
2 March 2022 (2:39pm)	£100
2 March 2022 (4:21pm)	£200
2 March 2022 (4:41pm)	£600
2 March 2022 (5:06pm)	£1,200
2 March 2022 (5:38pm)	£1,200
3 March 2022 (6:39pm)	£1,200

On 4 March 2022, seemingly in a bid to tempt her into making further payments, the fraudsters did return £600 to Ms C. But also on 4 March 2022, Ms C began a conversation with Monzo through its online chat function and asked about refund policies. It was during these conversations with Monzo, that it came to light Ms C had been the victim of a scam.

Ms C has told us that after she'd made the first of the £1,200 payments she made, she'd considered not making any further transactions. But despite these concerns, she continued

to make payments as she wanted to get her money back. She added that she recognised the scammer wasn't answering her questions properly, but in her frustration she's said she was trying to do whatever it took to get her money back.

Ms C raised the matter with Monzo. It has committed to follow the Lending Standards Board Contingent Reimbursement Model (CRM) Code (although it isn't a signatory), which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances. Monzo says one or more of those exceptions applies in this case.

Monzo issued its final response to Ms C on 29 March 2022, not upholding her complaint. In summary it said it had complied with its regulatory obligations. It added that it hadn't been able to recover the money Ms C lost and it didn't feel Ms C had taken reasonable steps to check who she was paying and that it had given several warnings.

Unhappy with Monzo's response, Ms C then brought her complaint to this service. One of our investigator's looked into things and thought the complaint should be upheld in part. In summary, in relation to the first payment Ms C made, our investigator didn't think Monzo had established that it shouldn't reimburse Ms C, under the provisions of the CRM code, and as such it should refund Ms C the £100, along with interest.

In relation to the remaining payments Ms C made. Our investigator didn't think Ms C had a reasonable basis for believing she was interacting with a legitimate company. He thought there was enough going on, that Ms C should have taken further steps before she made further payments. And so he thought she should be held partially liable.

But our investigator also concluded that Monzo missed an opportunity to identify the payments Ms C made presented an APP scam risk. Our investigator thought, at the point Ms C made the first of the £1,200 payments (at 5:06pm on 2 March 2022), there was enough going on to have alerted Monzo to the potential that Ms C might have been at risk of financial harm. He added that if Monzo had contacted Ms C at this point, it's likely the spell would have been broken.

In view of this, our investigator thought Ms C and Monzo should share liability for this payment for £1,200 and for the two subsequent payments of £1,200 that Ms C went on to make. Our investigator recommended Monzo should refund 50% of the loss of these payments, along with interest.

Ms C agreed with our investigator's opinion, but Monzo didn't. As agreement couldn't be reached, the complaint has been passed to me for a 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.

I would like to reassure the parties that although I have only set out the key points, I have read and considered what's been provided. Having done so, I agree with the conclusions reached by the investigator, I'll explain why.

Under the terms of the CRM Code, I'm satisfied Monzo should have refunded Ms C the money she lost, for the first payment for £100 she made. I am not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this case. Ms C was using a recognised marketplace and could see the seller had good reviews and it seemed was being followed by mutual friends. Ms C didn't know she was being scammed and I think

it's reasonable and proportionate for her to have trusted what she saw, prior to making this first payment for £100.

Unfortunately, for the payments that followed I think the evidence suggests Ms C didn't have a reasonable basis for believing she was dealing with a legitimate financial business when she made the transfers.

I think Ms C ought to have had concerns when the fraudsters first told her that they hadn't received her payment and that they'd need a further payment before a refund was issued. They were also offering Ms C a free pair of earphones (which based on market value were worth as much, or more, than the item she was intending to purchase) if she made the further payment. I'm mindful that these things on their own may not have been enough to have prevented Ms C from proceeding to make the payments. But taken collectively, along with Ms C recognising herself that the fraudsters weren't answering her questions properly, I think there was enough going on for her to have questioned what she was being asked to do. I think it ought to have seemed unusual for a legitimate seller to be asking for further payments or offering goods for free.

I think there were sufficient unusual factors here that Ms C ought to have acted far more cautiously than she did. I'm not persuaded, therefore, that from the point Ms C was making the second payment to the fraudsters (of £100 on 2 March 2022 at 2:39pm) that she had a reasonable basis for believing she was making a payment for legitimate goods or to a legitimate company. I think this is supported, at least in part, by Ms C's own testimony to us, where she honestly recognised that at the point she was making the first payment for £1,200 she considered not making any further payments, but says she was driven to in the hope of getting her money back. Overall, I'm persuaded Ms C is, at least in part, liable for the money she lost.

Considering this Monzo isn't required to provide Ms C with a full refund under the CRM Code, for the payments that followed the first payment she made.

*Should Monzo have done more to protect Ms C?*

In addition to its responsibilities under the CRM Code, when Ms C made the payments, Monzo should fairly and reasonably have had systems in place to look out for unusual transactions or other signs that might indicate that she was at risk of fraud (among other things).

In this case, I need to decide whether Monzo acted fairly and reasonably in its dealings with Ms C, when Ms C made transfers to a fraudster and when she reported the fraud, or whether it should have done more than it did.

In making the payments through her mobile banking I'm satisfied Ms C authorised the transactions. Because of this, Monzo had an obligation to follow her instruction. But there are some situations in which it should reasonably have had a closer look at the circumstances surrounding the transfers - as a matter of good practice Monzo should've been on the lookout for unusual and out of character transactions.

So, I've thought about whether the transfers Ms C made were out of character and unusual. To decide this, I've reviewed the activity on Ms C's account statements, from which the payments were made, for the months leading up to the scam. This is often a finely balanced matter, and Monzo has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud.

On balance, I can't fairly say that the first four transactions Ms C made were so unusual or suspicious in comparison to her usual account activity, that they ought to have alerted Monzo that Ms C may have been at risk of financial harm. But at the point, on 2 March 2022 (at 5:06pm), when Ms C makes a payment for £1,200, I'm persuaded that a pattern of payments has begun to emerge that I think ought to have caused Monzo to be concerned that Ms C might have been at risk of financial harm. I say that as, at this point, Ms C has made multiple payments in quick succession, for increasing amounts, to new/recently set up payees.

Payments of an increasing value, over a short period of time, to a new payee (as was the case here), can often be typical hallmarks of a scam. As such, I find this payment was unusual and uncharacteristic and Monzo's systems ought to have triggered an alert and the payment/s paused pending further intervention. I agree with our investigator, that if Monzo had intervened then it's more likely than not Ms C would have explained what she was doing. I think it would have come to light that Ms C had been told she needed to make further payments, of increasing amounts, in order to get a refund. I think what she was being asked to do would have been of concern to Monzo and it would have sounded very much like a scam. So much so, that I think it would have persuaded Ms C not to continue with the payments, especially given that at this point Ms C had her own concerns.

Therefore I think, from this point, Monzo could have prevented Ms C from making this and the subsequent payments, preventing her losses from this point. For this reason I think Monzo is also, at least in part, liable for the money Ms C has lost.

Overall, I consider Monzo could have prevented Ms C from making some of the payments she did and so, along with refunding 100% of the first payment Ms C made (for £100), it should also refund 50% of Ms C's loss, from the point she made the first payment for £1,200 (on 2 March 2022 at 5:06pm), along with paying interest.

### *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. Monzo did try and recover the funds Ms C had made, but unfortunately no funds remained. I'm satisfied Monzo didn't miss an opportunity to recover the money Ms C lost.

### **Putting things right**

For the reasons outlined above, Monzo Bank Ltd should now;

- Refund Ms C the full amount of the first payment she made to the scammer (being £100).
- Pay 8% interest on this amount, from the date Ms C's claim was declined under the CRM Code, until the date of settlement.
- Refund Ms C 50% of her loss, from and including the payment for £1,200 she made to the fraudster on 2 March 2022 at 5:06pm (being 50% of £3,600).
- Pay interest on the 50% refund, from the date of transactions to the date of settlement.

**My final decision**

My final decision is that I uphold this complaint against Monzo Bank Ltd in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 23 February 2023.

Stephen Wise  
**Ombudsman**