

The complaint

Miss P complains that Monzo Bank Ltd won't refund her the money she lost when she fell victim to a purchase scam.

What happened

Both sides are aware of the circumstances of the complaint. But I will begin by briefly summarising what happened.

Miss P holds a current account with Monzo. She received a message from a friend recommending a seller of designer trainers and saying they'd received their order from the seller. Miss P says the seller appeared to have a lot of followers and over 100 reviews.

Miss P contacted the seller using the link provided in the message and after some discussion, she ordered trainers from the seller. The seller would only accept bank transfer, so Miss P sent a payment of £420 by Faster Payments transfer from her Monzo account.

But the seller claimed the payment hadn't arrived and tried to get Miss P to send the money a second time. Miss P realised something wasn't right and contacted Monzo to report she'd been the victim of a scam. Monzo tried to recover the money Miss P had sent, but none remained.

Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (the CRM Code) which can offer additional protection from Authorised Push Payment scams (APP scams) such as this one. But Monzo said it wouldn't refund Miss P because it didn't think she'd taken enough steps to check who she was paying and what for.

Miss P didn't agree and referred a complaint about the outcome to this service for review.

I issued my provisional findings on the merits of Miss P's complaint on 7 December 2022. In my provisional findings, I explained why I didn't intend to uphold Miss P's complaint. An extract of that decision is set out below and forms part of this final decision:

I'm sorry to hear about what happened to Miss P. I can understand why she wants her losses to be refunded to her. However, while I have sympathy for Miss P in what happened, I have to recognise that the principal cause of her losses here were the scammers who deceived her. I must also take into account that Monzo has a primary obligation to carry out the payment instructions its customers give it. As a starting point, a customer is therefore assumed liable for a payment they have instructed to be made.

As I've mentioned above, the CRM Code provides additional protection for the victims of APP scams. I'm satisfied that the payment Miss P made falls within the scope of the CRM Code. But despite offering additional protections, the CRM Code includes provisions allowing a firm not to reimburse APP scam losses fully where the firm can establish that the customer failed to take sufficient care when making the payment (often referred to as the exceptions to reimbursement).

Relevant here, this includes where the customer made a payment without a reasonable basis for believing that the person the customer was dealing with was legitimate, selling genuine goods, or that the payee was the person the customer was expecting to pay.

Monzo says this exception applies here. It reviewed Miss P's claim against the CRM Code, but it didn't think it was required to reimburse her.

In deciding this complaint, I must first determine whether Monzo has established this exception to reimbursement can be fairly applied – in other words, that Miss P made the payments without having a reasonable basis for believing it was legitimate.

In determining these points, I have carefully considered everything Miss P has submitted as well as the evidence submitted by the bank.

This scam had some features that made it seem more genuine, such as Miss P getting the link to the seller from a friend whose message said they'd received the goods they paid for. But there were other features that I think should have led Miss P to have genuine concerns that all might not be as it seemed.

Miss P explains she received the link from a friend in a message sent on the same social media platform. It seems unlikely to me that a friend would suggest Miss P should try to buy something from a place that was an outright scam. That suggests two alternative possibilities.

Firstly, that the seller was actually legitimate, but for some reason Miss P's order wasn't fulfilled. If that was the case, then this would likely be a normal buyer/seller dispute. That would mean this wasn't an APP scam under the terms of the CRM Code and as such I could not require Monzo to reimburse Miss P.

To my mind the other main possibility is that the friend's account had been hacked and so the message she believed came from her friend was not actually from her friend but instead from someone who'd hacked into her friend's account – sending it with the intent of encouraging her to buy from a source she'd otherwise not have been using.

Of the two options, I am more inclined to think the second is the most likely scenario. In other words, I think Miss P did fall victim to a scam here, and I don't think Miss P's friend recommended her to use a seller who was not legitimate.

Miss P explains that there was no advert or similar shown to her, because she'd simply used the link her 'friend' provided, and the discussion was then all carried out through chat on the social media app. She says some of the conversation was deleted by the seller but has provided screenshots showing much of it.

It's unclear what was deleted from the message history. It seems to me that if the seller had deleted messages before Miss P had even sent a payment this would have been a cause for concern for her – it wouldn't have seemed like something a legitimate retailer would do. If the seller deleted some parts but not others after the payment had been made then it's difficult to understand what the motivation for that could be – by this point the seller already had her money. It also seems surprising that if they went to the trouble of later deleting messages they would not have also deleted other messages such as the ones including the payment details.

In any event there are no obvious gaps in the conversation I've seen - what Miss P has been able to provide looks to provide a series of contiguous messages covering the relevant parts of what was discussed.

I've reviewed the messages, which start with "You replied to their story" and then Miss P saying "Hi, I was interested in getting size 4 in these please". The seller replies that these are in stock. Miss P asked whether the seller also had a pair of Jordan 1s in stock in size five, which the seller said they did.

I can see Miss P requested to make her payment by way of a method that she was aware would provide with more protection than a bank transfer - a sensible precaution in the circumstances. However, the seller said they couldn't accept that, insisting on bank transfer. I think being prevented from using the safer alternative payment method she'd suggested should have prompted her to be yet more cautious before making this payment.

After the discussion about payment options, Miss P said "Okay I wanted to get the black and white balenciaga in size 4 and the yeezys in size 11".

There was then a discussion about whether a pair could be returned if it wasn't the right size, with the seller saying that would be fine. Miss P said "Okay that's great I want to proceed with the order please".

The seller said "that will be £420 inclusive with next day delivery [...]". Miss P queried "Because my total is coming up to 420 would I be getting the Jordan?" The seller said "... yes indeed" and "Please choose from our range of Jordan 1s" to which Miss P said she wanted the pair she'd asked about before. The seller sent her bank details which were for a personal rather than a business account and Miss P sent the money.

So, on my reading of the messages to this point, Miss P had placed an order for Balenciaga trainers in size four plus Yeezy's in size eleven, and would also be getting a pair of Jordan 1's in size five included in the price of £420.

Miss P recalls thinking she was only buying two pairs, the Jordan 1's and the Yeezy's. But reading over the conversation from the time I have to conclude that she was actually purchasing all three pairs.

I can understand why this would have seemed an attractive deal. On their own a pair of Balenciaga trainers would normally retail for the same total price or more.

In all, I think this offer was too good to be true. The price was low even for the two pairs Miss P now says she thought she was buying. There was nothing to explain how the seller was able to offer these models of trainers at such a cheap price.

Miss P acknowledged that she was sceptical about sending the money. I think her instincts were right here - she was right to have doubts about the seller.

Miss P says she was convinced it must be legitimate because she had been recommended by a friend and there appeared to be reviews. But I think what the seller was saying was implausible. I think that meant Miss P was justified in being sceptical. There was enough here that Miss P ought to have had serious doubts that this was indeed a legitimate seller offering legitimate goods for sale, and less persuasive evidence for the opposite case.

In terms of the CRM Code, where a customer made a payment without having a reasonable basis for believing they were paying for legitimate goods from a legitimate seller, or that they were paying the person they believed they were, then their bank does not need to refund them for their loss even when this was due a scam. I think Monzo is entitled to rely on that here - I think it has done enough to establish that Miss P didn't

have a reasonable basis for believing this was legitimate.

Based on what Monzo could reasonably have known at the time, this payment wasn't one which would have particularly stood out as being at risk of being connected to a fraud or scam. With this in mind I don't think Monzo needed to give an 'Effective Warning' under the terms of the CRM Code, so I cannot find it at fault for not doing so here. And I don't think Monzo needed to take specific steps at the time, such as intervening directly before it would release Miss P's payment.

When Monzo was made aware of what had happened it acted appropriately and tried to recover the funds, although none remained.

In short, I don't find Monzo is to blame for Miss P's losses. I don't find it is liable to refund Miss P under the terms of the CRM Code either. And as explained above, if this was a seller who had been trading legitimately and just didn't fulfil Miss P's order then that wouldn't change the outcome I've reached because Monzo wouldn't be required to refund under that scenario.

In saying this, I want to stress that I am very sorry to hear about what happened to Miss P and I am sorry she has lost out here. She was the victim of a scam designed to defraud her of her money. I appreciate that she's lost a significant amount because of what happened. But I can only look at what Monzo was and is required to do – I have no power to consider the actions of the criminal scammers who were ultimately responsible for Miss P's loss. And I don't find Monzo is required to refund her under the CRM Code, nor that the bank was at fault in making the payment Miss P had instructed it to make or for any other reason.

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.

Responses to my provisional decision

Miss P responded to my provisional decision. She explained that she had only enquired about buying the Balenciaga trainers and ended up not paying for these because the seller was asking for too much money. She said she thought she'd only tried to buy the Yeezy's and Jordan's and that the seller had deleted parts of the chat which meant it was unclear what she'd bought and paid for. Monzo didn't submit further comments.

My further review

I've reviewed everything afresh in light of Miss P's comments. I understand her point about the seller deleting part of the conversation. I've carefully reconsidered the chat history to look for signs of where there might be missing or deleted messages. But I haven't been able to find any obvious signs of where the flow of messages has been interrupted. And the message Miss P sent saying "Okay I wanted to get the black and white balenciaga in size 4 and the yeezys in size 11", followed by "Okay thats great I want to proceed with the order please", leads me to find that Miss P was buying the Balenciaga trainers as well – even if she doesn't now recall that was what was happening.

But more importantly, I think the price she was being offered was too good to be true even if it didn't include the Balenciaga trainers (which I think it did). The other trainers were specific models which at the time would resell for more than the total asking price, even before delivery was added. Based on a well-known website that tracks the sales price of trainers

over time, the combined price for the exact models Miss P was buying (if we exclude the Balenciaga trainers) would normally be around £700 in January 2022. That website is the one linked to the screenshots Miss P provided to show the model of trainer and includes the exact reference number for these models. The one price that was quoted in the chat of £150 (for the Jordan 1s) was well below what appears to have been the normal market price for that specific version at the time, which was over £400.

Besides the price, there were other features here that should have caused Miss P to doubt this would be a legitimate seller – they seemingly had a full range of sizes available in less readily available models of trainer and when Miss P asked if she'd be also getting the Jordan's included she was told "... *yes indeed*" and "*Please choose from our range of Jordan 1s*" – so was essentially offered a free choice of items in her chosen size after the total cost had been already given to her. That seems unlikely.

There was no real explanation of how all of this could be possible or why, if they were genuine, the seller wouldn't simply resell these at the normal going rate. Given the very low prices, even if the seller had intended to send any items, there was the real risk these would turn out to be counterfeit. In short, this seller and what they were offering simply didn't look legitimate.

Miss P said she was sceptical about sending the money, and I think she should have trusted her instincts here. This scam was cynically offering items that were in demand, but seemingly without any intention of providing what was paid for. I am sorry that she fell victim to the scammer's deception and has lost out as a result. Unfortunately buying an item using a bank transfer does not provide the same protections available through credit card and debit card purchases. Having looked into all the evidence that's available to me, I don't think Monzo is required to reimburse Miss P under the terms of the CRM Code (or for any other reason). I am really sorry to have to disappoint her, but I can't fairly hold Monzo responsible for the money she lost here.

My final decision

For the reasons given above and in my provisional decision, I do not uphold Miss P's complaint about Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 18 January 2023.

Stephen Dickie
Ombudsman