

The complaint

Miss O is unhappy that Monzo Bank Ltd ("Monzo") will not refund the money she lost after paying for an item she did not receive.

What happened

Miss O was looking for a wearable activity tracker online when she found the profile of someone selling one on a selling page of a social networking site. The profile Miss O found was a number of years old and appeared to have genuine posts to friends and family.

Miss O shared some messages with the seller and they agreed a price of £65. The seller told Miss O that once they had received the payment, they would send the activity tracker and provide tracking details.

The seller provided their bank account details and Miss O made the transfer from her Monzo account on her mobile phone.

The seller told Miss O that they'd sent the item but didn't send the tracking details as they said they would. And when Miss O messaged the seller to tell them the item had not been received, the communication with the seller stopped and Miss O was blocked - so she contacted Monzo for help. Miss O explained that she thought she had been the victim of a scam and explained what had happened.

Monzo considered whether it should refund Miss O for her loss. But it turned down her claim for a refund and said she didn't take enough steps to check who she was paying was legitimate or that the item existed.

Miss O brought her complaint to our service as she wasn't happy with the bank's decision.

One of our Investigators looked into the complaint and recommended it be upheld. Monzo is not a signatory of the Lending Standards Board's Contingent Reimbursement Model (the CRM Code) but it has agreed to adhere to it regardless. This means Monzo has made a commitment to reimburse customers who are victims of authorised push payment scams except in limited circumstances. Our Investigator didn't think any of those circumstances applied here.

The investigator said Monzo had not been able to establish that Miss O did not have a reasonable basis for believing that the payee was the person he was expecting to pay, the payment was for genuine goods and/or that the person he was transacting with was legitimate. In reaching that position, they pointed out that the profile in question had been established for a number of years and appeared to have genuine posts. They also said the price requested was reasonable for a second-hand item like the one in question and it wouldn't have been reasonable to expect Miss O to drive around 100 miles to see the item

in person given its relatively low cost. For these reasons, our investigator thought Monzo should have fully reimbursed Miss O's loss.

Monzo did not agree. It maintained the view that Miss O did not have a reasonable basis for belief when making this payment. It thought she had sent the payment to an unknown individual online without a proper basis for trusting them and reiterated the points it had made previously. Monzo maintained that it had no obligation to refund the loss when correctly applying the CRM Code.

As no agreement could be reached, the complaint has been referred to me.

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.

When thinking about what is fair and reasonable in this case, I've considered whether Monzo should have reimbursed Miss O 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 Miss O from the possibility of financial harm from fraud.

There's no dispute here that Miss O was tricked into making the payment. She thought she would receive an activity tracker in exchange for her money and the seller did not keep to their side of that bargain. But this isn't enough, in and of itself, for Miss O to receive a refund of the money under the CRM Code. The Code also places a level of care on Miss O.

The CRM Code

Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (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 if it believes its customer should not receive a refund of the amount lost. In this case, Monzo has explained its key concern is whether Miss O made the payment without a reasonable basis for believing that the payee was the person she was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom she 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, I am not persuaded the concerns Monzo has raised about the legitimacy of the transaction Miss O was making are enough to support its position that she failed to meet her requisite level of care under the CRM Code. It follows that I do not think Monzo has been able to establish that it may choose not to reimburse Miss O under the terms of the Code.

Having thought about what both sides have said and provided, I consider Miss O had a reasonable basis for believing the payment she was making was for genuine goods and that the person she was transacting with was legitimate. In reaching that conclusion, I have thought carefully about what it is realistic to have expected Miss O to do when she was looking to spend a total of £65 online.

Miss O has told us that the sellers profile had been established for a number of years and there appeared to be a number of genuine posts. The profile appeared to be that of a private individual who posted regularly.

Having considered this, I don't think there was anything obviously untoward about the seller. And I don't agree with Monzo that the amount of time the profile was in place should not have been a factor in Miss O's decision-making process. There is an assumption that scam profiles will be reported and taken down relatively soon after they have been set-up once their victims become aware of the scam. And so I can understand why a profile having been available for many years would have lulled Miss O into a false sense of security at the time she made the payment. And I'm not satisfied that Monzo has placed enough weight on the fact that this appeared to be a private sale between two individuals and so it is difficult to see what more Miss O could've done to establish that the seller was who they said they were or to verify that the item existed. I don't think it was unreasonable for Miss O to have believed the seller was who they said they were and from what Miss O recalls that she saw, she had no reason to think the seller would not keep to their side of the bargain. She had used the selling site a number of times prior to this and conducted successful purchases.

I've thought about the price Miss O paid thinking she was getting a second-hand activity tracker. And I don't think the price the seller requested was low enough that it meant Miss O ought to have questioned it more in her own mind. The price of the item was the amount you would expect to pay. The item was second-hand, and this was a private sale between two private individuals.

Even though Monzo has said it believes there was more Miss O could have done to assure herself that she could trust the seller, I am not persuaded Miss O needed to make such extensive enquiries in the particular circumstances of this case. I've thought carefully about the price of the item Miss O wanted to buy and the fact that this was a private sale. Whilst the situation is finely balanced, I think Miss O's actions and assessment of the situation were appropriate and proportionate to a relatively unremarkable payment of £65. And I don't think it would be reasonable to have expected Miss O to make the extensive journey to see the item in person.

The site in question is a well-established site used primarily for the purpose of private second-hand sales between private individuals – such as the one Miss O entered into. Whilst I acknowledge that the best practice guidance on the site itself directs potential buyers to purchase via Paypal, it does not preclude the sale of items via bank transfer which is often used as a payment method in private sales such as the one now in question here.

Weighing everything up, I don't think it would have been evident to Miss O that there was a considerable degree of risk associated with this purchase. The seller appeared to have a long established profile and the price wasn't so low that it should've appeared unrealistic. I am not persuaded it did occur to her that there was a possibility she wouldn't receive the item or that it might not be genuine. It is not realistic to expect Miss O to have the same awareness of what scams like this can look and feel like as the bank does. As I've said above, Miss O had successfully bought items from sellers on this site before. I think Miss

O took enough care with a relatively modest purchase of £65 to say that she had a reasonable basis for believing she was buying genuine goods from a legitimate seller. I don't believe she took a calculated chance by going ahead with the purchase in the circumstances she did.

Overall, I don't think Miss O's actions fell below the level of care expected of her in this situation. I think Monzo ought to have fully refunded Miss O at the time she reported the loss and so it should fairly and reasonably compensate Miss O by refunding that loss now.

Putting things right

The Code explains that where a customer has met their requisite level of care (which as I've explained, I'm satisfied was the case here) they should be refunded all of the money that was lost.

So I think it's fair that Monzo refunds the £65 Miss O lost, along with 8% simple interest from the date Monzo declined her claim until the date the funds are returned.

My final decision

For the reasons given above, I uphold this complaint and direct Monzo Bank Ltd to pay the settlement as I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 28 April 2023.

Emly Hanley
Ombudsman