

The complaint

Mr C complains that Monzo Bank Ltd (Monzo) won't refund a transaction on his account which he 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.

Mr C has explained that he fell victim to a scam. He was selling an item on Gumtree, and someone posing as an interested buyer messaged him. They sent him a link to a website which they said would allow him to receive payment for the item, and arrange for the courier to pick it up for delivery.

The scammer told him he would receive a notification on his app to receive the payment. Mr C questioned why this notification, which prompted him to enter his PIN, didn't show the amount he was expecting for the item (£35). The scammer said the figure displayed was the order number. They also said they 'always' ordered through that website and hadn't experienced any problems.

Mr C then entered his PIN as instructed. But rather than receiving the payment he was expecting, a payment for £689.59 left his account. He asked Monzo to refund him. It paid him £25 compensation for how it handled the investigation, but said it wouldn't refund him as he had shared his card details and 'approved' the payment in the app.

Unhappy with this response, Mr C referred the matter to our service. Our investigator thought Monzo should refund the payment, with interest, and pay a further £75 compensation for the worry caused by failing to refund him sooner. As Monzo didn't accept this proposed resolution, the matter has been passed to me to decide.

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), the starting position is that Mr C is liable for payments he authorises. The PSRs specify that authorisation depends on whether the payment transactions were authenticated correctly – and whether the account holder consented to them.
- It seems to be agreed that the disputed payment was properly authenticated. Whether Mr C consented to it (as I'll cover in more detail below) depends on whether he completed the agreed steps to make the payment. Or if someone else acted on his behalf and used those agreed steps.

- It's my understanding that, in order to make this payment, Mr C's card details and a payment amount was entered. Then his PIN was entered on his app.
- I'm persuaded it wasn't Mr C who entered his card details (and other payment information) to initiate this transaction. It doesn't seem that Monzo disputes this either – as it says he *shared* his card details, not that he input them to make the payment.
- While Mr C did enter his card details on the website the scammer sent him a link to, he didn't do so for the purpose of authorising a payment. Instead, he was tricked by the scammer to think he needed to enter those details to *receive* a payment – not knowing the scammer could access and use them to request the payment.
- Monzo argues that, in line with its terms, Mr C still consented to the payment as he entered his PIN on the app. But he didn't do this with the understanding he was consenting to a payment. Rather, he thought this was part of the process for him to receive payment for the item he was selling. This belief was supported by the website he saw, and what the scammer told him.
- Furthermore, the PSRs set out that a payment is regarded to be authorised if the payer has given consent to the execution of the payment transaction. That consent must be given in the form, and in accordance with the procedure, agreed between the payer and its payment service provider.
- As Monzo's terms allude to, entering your PIN alone isn't enough to execute a payment. Further steps, such as entering the card details, are needed. As set out above, I don't think Mr C completed these earlier steps. Nor did he enter the PIN with the intention or understanding that he was authorising a payment.
- As Mr C didn't complete all the steps to make this payment, nor did he consent for someone else to do so, the payment is unauthorised.
- The payment information I've seen suggests this transaction was requested online for 'ecommerce'. That would generally mean it's what's termed a 'distance contract' – in other words, a transaction where neither the merchant nor the consumer are physically present. If so, in line with 77(4)(d) of the PSRs, Mr C would only be liable for it if he acted fraudulently. I've seen nothing to suggest he acted fraudulently, nor has Monzo suggested this. Mr C was instead the victim of a scam.
- However, Monzo says this wasn't a distance contract as the payment was to transfer funds into a payment account. If true, I agree that in line with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, this wouldn't be a distance contract – as contracts for services of a payment or banking nature are excepted.
- In line with the PSRs, if this isn't a distance contract, Mr C could still be held liable for this unauthorised payment if he failed with gross negligence or intent to comply with the terms of the account – or to keep his personalised security details safe.
- Monzo hasn't provided supporting evidence to show how it knows this transaction was for banking and payment services. Regardless, even if the considerations for an excepted (rather than a distance) contract apply, I still don't think Mr C should fairly be held liable for the payment.
- I don't find that Mr C *intentionally* failed to keep his account or security details safe. He entered his card details to receive a payment, not realising this information could

be accessed and used by the scammer. And he didn't share his PIN; he entered it into his own banking app, again thinking he'd then receive the expected payment.

- I don't find that Mr C failed with *gross negligence* either. That's not to say there wasn't more he could have done to protect himself. But I don't think his actions show a very significant degree of carelessness beyond what a reasonable person in his situation would have done.
- Mr C was genuinely selling an item, so the message from the scammer posing as an interested buyer wasn't particularly unexpected. In my view, the link to the website, and the screenshot I've seen of what it looked like, did appear convincing. I can see why Mr C believed it was a legitimate website and therefore followed the instructions on it to receive payment and arrange for a courier to collect the item for delivery.
- Acting off the back of that website, I can also see why he was persuaded to enter his PIN on the app to 'receive' the payment. The scammer told him this was part of the process for the website, which they'd used before without any issue.
- Mr C did question why the notification didn't show the payment amount he was expecting. But he was persuaded by the scammer's explanation that it was instead showing the order number. Particularly as the transaction was made in another currency, I can see why it wasn't immediately apparent to Mr C that this was a lie.
- Overall, in the context of what was a reasonably sophisticated scam, I don't think Mr C's actions showed serious disregard of an obvious risk such that he failed with gross negligence.
- I therefore find that Mr C isn't liable for this payment. In line with its obligations under the PSRs, Monzo should have promptly refunded him when he reported what had happened. Its failure to do so unnecessarily caused him additional worry and upset. I don't consider the £25 compensation Monzo has paid adequate to reflect this. So I'm awarding a further £75 compensation.

Putting things right

To put things right, Monzo Bank Ltd must:

- Refund Mr C for the unauthorised transaction of £689.59;
- Pay 8% simple interest on this amount, from the date of the unauthorised payment to the date of settlement (less any tax lawfully deductible), to compensate him for the loss of use of the funds; and
- Pay Mr C a further £75 compensation for his distress and inconvenience – on top of the £25 it has already paid.

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 Mr C to accept or reject my decision before 28 February 2023.

Rachel Loughlin
Ombudsman