

The complaint

Miss Y is unhappy that Monzo Bank Ltd won't refund the money she lost after she fell victim to a scam.

What happened

I issued my provisional decision on this complaint on 31 May 2023. The background and circumstances of the case and the reasons why I was minded to not uphold it were set out in that decision. I have reproduced the provisional decision in italics below:

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.

Miss Y has told us that in January 2022 she was looking for a loan for an emergency expense. She's said she made several applications online, across a number of websites, applying for a loan for £1,600 and the following day she was contacted by one of the company's she'd applied to.

Miss Y has said the company questioned why she had such a low credit score, but said that she was eligible for a higher loan for £3,000, which she agreed to. Miss Y has said that she didn't receive any emails or documentation regarding the loan, but she thought the company were legitimate, as she'd checked their website and they continuously spoke to her over the phone. But unfortunately for Miss Y, the lender wasn't genuine and she'd actually been contacted by a fraudster.

The fraudster was operating what is known as an 'advance fee fraud' – which involves the fraudster asking for upfront payments on the promise of an eventual return to the victim – in this case that promised return was a £3,000 loan. Fraudsters will often keep requesting payments until their victim refuses to pay. The first payment request was for £301 which was required, the fraudster claimed, for the first instalment of the loan under a new insurance scheme set up by government, Miss Y has said she was told this was due to her low credit score.

Believing things to be genuine, Miss Y went ahead and made this payment. But the fraudster then asked for further payments, which the fraudster told her were for tax, but that the amounts would be refunded to her. The fraudster added that its payment portal could only process payments for £4,000-£5,000, so Miss Y needed to pay additional amounts to reach that figure. Miss Y sent payments totalling £1,601, to four different accounts controlled by the fraudsters, a breakdown of those payments is detailed below;

13 January 2022	£301
14 January 2022	£300
14 January 2022	£475
17 January 2022	£525

Miss Y has said she became suspicious, when after sending a number of payments she hadn't received an email from the company. Miss Y 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 Miss Y in January 2022, not upholding her complaint. In summary it said it didn't feel Miss Y had taken enough steps to check who she was paying and what for.

Unhappy with Monzo's response, Miss Y then brought her complaint to this service. One of our Investigator's looked into things and thought the complaint should be upheld in part and that Monzo should refund 50% of the money Miss Y lost along with interest. In summary she said this because she didn't think Monzo had met the standards of it, as it hadn't provided an effective warning. But our Investigator also didn't think Miss Y had a reasonable basis for belief when making the payments, as she didn't think the reasons Miss Y was given for needing to send money were realistic.

Monzo didn't agree with our Investigator's view. As agreement couldn't be reached, the complaint has been passed to me for a decision.

What I've provisionally 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.

There's no dispute that Miss Y authorised the payments that are the subject of this complaint. Broadly speaking, under the account terms and conditions and the Payment Service Regulations 2017, she would normally be liable for them. But that isn't the end of the story.

Where a customer has been the victim of a scam it may be appropriate for the bank to reimburse the customer, even though payments have been properly authorised. Of particular relevance to the question of what is fair and reasonable in this case is the CRM Code. As I've said above, the CRM Code requires firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances. A firm may choose not to reimburse a customer if it can establish that:*

- *The customer made payments without having a reasonable basis for believing that:*
 - *the payee was the person the Customer was expecting to pay;*
 - *the payment was for genuine goods or services; and/or*
 - *the person or business with whom they transacted was legitimate.*

**Further exceptions outlined in the CRM Code do not apply to this case.*

Taking into account all of the circumstances of this case, including the characteristics and complexity of the scam, I'm minded to say that I don't think Miss Y had a reasonable basis for believing the payments were for genuine goods or services; and/or the person or business with whom she transacted was legitimate. I'll explain why.

- *Miss Y acknowledges that she searched online and applied for several loans across multiple websites. Here the fraudsters questioned Miss Y about her low credit score, yet were willing to offer her a loan, of almost double what she asked for. I think Miss Y ought to have questioned why the fraudsters were prepared to offer such a generous loan and I've seen no evidence to suggest she did question this.*

- *I also think Miss Y ought to have had concerns when the fraudsters began to request money from her. I think it's reasonable to say that it isn't usual for a legitimate loan company to ask for upfront payments before releasing a loan that it has agreed. And I struggle to see why there could legitimately be a need for Miss Y to pay the first instalment, before the loan funds were released.*
- *I'm also mindful here that the reasons for Miss Y needing to send payments became more and more outlandish. It's hard to see why Miss Y would be required to pay tax and I also think it would have been fair and reasonable for Miss Y to have had concerns that she needed to send payments in order to reach a minimum amount of £4,000-£5,000, to enable a payment to be processed through a portal.*
- *I say this especially as the upfront payments Miss Y ultimately paid here were for an amount more than the original amount of borrowing she had applied for. If Miss Y didn't have concerns before this point, she really ought to have done when asked for these upfront payments to complete the loan.*
- *I've also considered here that Miss Y hadn't received any documentation regarding the loan or signed any loan agreement. I think it would be fair and reasonable to expect a legitimate company to provide loan documentation for a customer to consider before agreeing to progress an application.*
- *As well as this, I'm mindful, in the circumstances of this case, that Miss Y has made four payments, to four different payees, three of which were in the names of individuals. I can't see that Miss Y has questioned or been given a persuasive reason as to why she would be sending payments to what would appear to be personal accounts, rather than directly to the company with whom she thought she was dealing.*

I'm mindful that, taking any of the individual factors above in isolation, they may not have been enough to have prevented Miss Y from proceeding. But when considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Miss Y ought reasonably to have taken further steps to protect herself. I think Miss Y should have done more than she did to question the loan and to satisfy herself that it was legitimate before making the payments.

With the above in mind, in the particular circumstances of this case, I consider that Miss Y ought to have had concerns about the legitimacy of the loan she'd been offered and that, in turn, ought to have led to a greater degree of checking on Miss Y's part. In not carrying out sufficient checks I don't find she had a reasonable basis for believing she was making payments for legitimate purposes.

Good industry practice requires that regulated firms such as Monzo engage in the monitoring of customer accounts and to be on the lookout for suspicious or out of character transactions with an aim of preventing fraud and protecting customers from financial harm. And under the CRM Code, where it identifies a risk of a customer falling victim to an APP scam, it is required to provide that customer with an "effective warning".

We now know, with the benefit of hindsight, that Miss Y was falling victim to a scam. But based on the information that was available to it at the time, I don't consider Monzo would've had any reasonable basis for coming to that conclusion. I say this because I don't think the payments Miss Y made would have appeared out of character or unusual.

I say that as I can see from Miss Y's account history that it is not unusual for her to credit her Monzo account and to then make an outgoing payment, as was the case with the payments Miss Y sent to the fraudster. Overall I don't think the payments Miss Y made would have appeared to Monzo as being so remarkable or large, in comparison to Miss Y's usual activity, that it ought reasonably to have suspected that she may have been at risk of financial harm. So I don't think the CRM Code required that Monzo display an effective warning as part of the payment process, and I'm not persuaded it would've had any grounds for intervening to question the payments with Miss Y before allowing them to be processed. When considering this I think the interventions it did make in the circumstances of this case were proportionate.

Finally I have considered whether Monzo did all it could to try and recover the money Miss Y lost. Monzo was limited in terms of what it could do here; it could only ask the beneficiary banks to return any money that remained in the recipients accounts. It needed to make enquiries quickly for the best chance of recovery. Unfortunately, it is common for fraudsters to withdraw or move the money on as quickly as possible, which was sadly the case here and unfortunately, no funds remained that could be recovered. Overall, I don't think Monzo missed an opportunity to recover the money Miss Y sadly lost.

All things considered, I'm not minded to say Monzo is liable to refund Miss Y under the terms of the CRM Code. In saying this, I want to stress that I am very sorry to hear about what happened to Miss Y and I am sorry she has lost out here. She was the victim of a cruel 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 and I'm not persuaded that Monzo is required to refund her under the CRM Code, nor that the bank was at fault in making the payments Miss Y had instructed it to make or for any other reason.

My provisional decision

For the reasons given above, I do not intend to uphold this complaint.

In my provisional decision I asked both parties to send me any further evidence or arguments that they wanted me to consider by 28 June 2023.

Monzo accepted my provisional decision and had nothing further to add.

Miss Y also responded, but didn't agree with the provisional decision. In summary she said;

- At the time she had completed several loan applications and had received other calls, from other companies, so it wasn't unusual for her to receive a call. Miss Y said the fraudsters call, was the third call she had received from a loan company that day.
- The fraudster had specific personal information about her, that she had entered on her loan application.
- She had specifically been looking for loans for people with poor credit scores. And when she was asked for an initial fee, she assumed this type of process was for people with poor credit ratings. She added she was in a state of emergency when taking out the loan and hadn't considered companies had set up to defraud people in this way.
- She checked the companies website and it appeared normal with a Financial Conduct Authority (FCA) number and a company registration number.

- She had several conversations over a number of days, during which the offer was made to increase her loan to £3,000.
- She became suspicious when she had not received any loan paperwork or a phone call after making the third payment and she began to question things. She said she spoke to people who presented themselves as senior people and guaranteed she would receive a refund and that the loan would be released.
- Regarding the payments made to personal accounts. Miss Y said she questioned this after making the third payment and was given company bank details to make payments to.

Miss Y has added that at the time she was desperate to receive a loan and very excited to finally receive an offer, after searching for two weeks. She's said the experience has caused her a lot of anxiety and put strain on relationships with family and friends.

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 thank both parties for their responses to my provisional decision.

Miss Y has told us something of the impact this scam has had on her, which I imagine was hard to do. I'm sorry to hear how difficult a time this has been for her. I understand how falling victim to such a cruel and callous scam has been deeply upsetting and I have a great deal of sympathy for her.

But I can only compel Monzo to refund Miss Y if it is responsible for the loss incurred. Having carefully re-considered the circumstances of this case, I can't see any basis on which I can fairly say that Monzo should be held liable for some or all of Miss Y's loss.

I've considered Miss Y's response to my provisional decision, but in the main, this isn't new information that Miss Y has told us about. To a degree the points she has raised formed part of the evidence that Miss Y and Monzo had previously provided to this service. As such, I had already considered most of these points ahead of issuing my provisional decision, so I won't repeat everything again here.

Miss Y has clarified that she did question, after making the third payment, why the payments were being made to personal accounts, and has said she was then provided with company account details. But, from the evidence I've seen, the only account name that Miss Y was given that appeared to have been a company account was when the second payment, for £300 was made. And I'm mindful that when making this particular payment the Confirmation of Payee notification Miss Y would have been presented with at the time, showed that the beneficiary bank was not supported (meaning that Miss Y wouldn't have received confirmation from Monzo that the account details she entered 'matched' with the name on the beneficiary account). So it wouldn't have been confirmed to Miss Y that she was actually paying a company.

And importantly for the final two payments she made, she again made payments to account details she had been given with personal names. With this in mind, I've not seen anything here to satisfy me that Miss Y ought to have been reassured, when she had been given four different sets of bank accounts which appeared to be predominately held by individuals. I don't think a legitimate loan company would ask for payments to be made to personal

accounts and I think this ought to have appeared as a red flag to Miss Y, especially considering she was being asked to make these payments before the loan funds had been released to her.

Miss Y has also shared more detail around her circumstances at the time and how she was desperate to take out a loan. The CRM Code talks about customers being reimbursed, despite exceptions applying, if the individual was vulnerable to the extent that they were unable to protect themselves from the scam. But from what I've seen I don't think this applies to Miss Y.

I say that as Miss Y was seeking to take out a loan, a decision that she took proactively, rather than being cold-called or pressured into an arrangement and she's told us she made numerous applications. That's not to take away from what I appreciate was a difficult time for Miss Y and it's not my intention to suggest she didn't need a loan to help with her finances. But it doesn't seem to be the case that it would be unreasonable to expect her to have been able to protect herself.

Overall, I see no reason to depart from the conclusions I indicated in my provisional decision. When considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Miss Y ought reasonably to have taken further steps to protect herself. I think Miss Y should have done more than she did to question the loan and to satisfy herself that it was legitimate before making the payments.

For reasons explained, when considering the CRM code, I also don't think there was a requirement for Monzo to provide an effective warning to Miss Y ahead of her making the payments and I don't think it missed an opportunity to prevent Miss Y from sadly losing this money.

I'm sorry to have to disappoint Miss Y, but I remain of the view that this complaint shouldn't be upheld.

My final decision

For the reasons given above, and within my provisional decision, my final decision is that I don't uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Y to accept or reject my decision before 26 July 2023.

Stephen Wise
Ombudsman