

The complaint

Mr M complains that PrePay Technologies Limited (trading as Monese) won't refund money he lost as a result of a scam.

What happened

Mr M is represented in this complaint by a claims management company, for simplicity I will refer to Mr M throughout this decision, even when referencing what his representatives have said on his behalf.

In November 2022 Mr M received a phone call from someone claiming to be working for the police. He was told that he and his wife owed tax in relation to their recent immigration into the UK. Mr M was told he'd receive a call from the courts, who would help him sort out these issues, and did then receive a call that appeared to be from the phone number belonging to the court he'd been told would be contacting him. Mr M was then told he'd also need to pay additional fees, and that if he didn't pay the outstanding tax and fees, he'd be arrested and face criminal prosecution.

Mr M believed he was speaking with an employee of HMRC and so he agreed to make a payment. The first payment was attempted by Mrs M, Mr M's wife, from her account with another bank, but her bank blocked that payment. So Mr M made the payment from his account instead, and went on to make another three payments – some of which were funded by transfers from Mrs M. In total he paid £8,750 to the scammers.

At this stage, the scammers asked for further money, and Mr and Mrs M realised that something untoward was going on. They called the police, who told them they had been the victim of a scam.

Mr M contacted PrePay to let it know and, after some delays, PrePay contacted the recipient bank to see if any funds remained, but did not receive a response. And, ultimately, PrePay didn't agree that it had any obligation to refund any money to Mr M's account, it said the payments had not been unusual enough to trigger its fraud detection systems and that it had provided some warnings about potential scams.

Mr M was unhappy with this and so he referred a complaint to this service. At this stage PrePay reviewed what had happened and offered to pay Mr M £100 compensation to recognise the delays in dealing with his fraud claim, but it maintained that it did not think it was obliged to refund any of the money he lost, and that it would not have been able to recover any funds from the recipient bank.

One of our Investigators looked into what had happened, and they felt that PrePay should have realised by the third payment that something untoward might be going on and that Mr M could be at risk of financial harm. So, they felt PrePay should have contacted Mr M to ask questions about the payments before agreeing to process any more of them. The Investigator thought that, if this had been done, it would have come to light that Mr M had been targeted by a scammer.

The Investigator also considered whether Mr M should bear some responsibility for his loss. The felt that there were inconsistencies in what Mr M saw and was being asked to do that should have flagged to him and Mrs M that something suspicious might be going on. So the Investigator found that Mr M should bear partial responsibility for the loss here, and recommended that PrePay refund 50% of the payments made from the third payment (inclusive) onwards, plus 8% interest.

PrePay accepted the Investigator's findings, but Mr M disagreed. He said that the second payment was large enough that it should have been flagged as unusual by PrePay, and he did not agree that it was reasonable for him to share responsibility for the loss given his particular circumstances.

As no agreement could be reached, this case has now 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.

Having done so I've reached the same conclusions as our Investigator and for the same reasons.

It isn't in dispute that Mr M authorised the disputed payments. And the starting position is that Mr M is responsible for transactions he's carried out himself (even as a result of deception). However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider PrePay should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

With this in mind, PrePay therefore needed to be on the lookout for payments that were out of character and where there was a greater risk of fraud.

The transactions on Mr M's account were generally low value, but while the first two payments made to the scammer were fairly large in comparison to the usual account activity - £1,950 and £4,300 – and were to a new payee, I don't think this alone was enough to flag to PrePay that something might be wrong. I appreciate that these amounts seem high, and they were the highest payments made in the previous few months, aside from transfers to Mr M's savings, but overall I don't think they were high enough to flag as particularly unusual to PrePay. However, I agree with our investigator that by the time of the third payment, PrePay should have realised something untoward might be going on. By this stage

Mr M had made multiple payments, over a short space of time, to a new payee, and this was not normal activity for Mr M's account.

So I think that by the time Mr M had attempted to make this third payment in quick succession, PrePay ought to have realised that there was a risk that he'd been targeted by a fraudster. And it should not have processed the third payment until it contacted Mr M to satisfy itself there was no risk of fraud. On balance, I think it's likely that, if Mr M had been asked about this payment, PrePay would've been able to uncover that he'd been targeted by a fraudster and so prevented him from making that payment or any of the following payments.

I say this because Mr M doesn't appear to have been given any cover story by the scammers, so I think it's likely he'd have been honest about why he was making the payment if asked. And given that this type of scam is well known in the industry, I think PrePay would then have been in a position to explain the risk Mr M had been exposed to.

I do though agree with our Investigator's finding that there were red flags here that should have caused Mr M (and Mrs M) to question the legitimacy of what they was being asked to do. For example, Mr M has said he used a professional relocation agent to organise his move to the UK, so I think it should have rung alarms for him that he was suddenly being asked to pay "immigration taxes" that his agent had not previously mentioned, I also think that it should have caused Mr M concern that a government agency was apparently using Whatsapp to correspond with him, rather than more official channels. And Mr M has told us the initial payment, attempted by Mrs M, was blocked by her bank. I think this also should have caused Mr and Mrs M concern. And, given how quickly they identified that this was a scam after they had made the payments, I think they could have done more – in light of these red flags – to ensure they were dealing with a legitimate request for payment. So, with all this in mind, I think it's fair and reasonable for Mr M to bear responsibility for 50% of the loss.

Lastly, I acknowledge that PrePay did delay in contacting the recipient bank to try and recover Mr M's funds. But given that I've seen evidence the funds were removed from the recipient account before Mr M uncovered the scam, I don't think this delay means he missed out on the opportunity to recover the funds. And I'm satisfied that the £100 compensation PrePay has offered is reasonable compensation for the additional period of uncertainty and worry Mr M experienced as a result of the delay.

So, in summary, I consider that PrePay could have done more to prevent this fraud from the third payment made onwards, but find that Mr M should also bear some responsibility for the financial loss here. I therefore consider that PrePay should refund 50% of the payments made from the third payment onwards.

Putting things right

To resolve this complaint PrePay should:

- Refund to Mr M 50% of the payments from the third payment onwards (inclusive) – representing a refund of £1,250
- Pay 8% interest on this amount from 17 November 2022 to the date of settlement.
- Pay to Mr M the £100 compensation it has offered

My final decision

I uphold this complaint in part. PrePay Technologies Limited (trading as Monese) should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 November 2023.

Sophie Mitchell
Ombudsman