

The complaint

Mr A complains that Monzo Bank Ltd hasn't refunded him after he fell victim to a scam whilst trying to buy a watch.

What happened

I issued a provisional decision for Mr A's complaint on 7 September 2023. I've copied this below as both parties have now responded.

Mr A came into contact with a person through social media who said they could secure luxury watches for customers at a discount and skipping some otherwise lengthy waitlists for such items. This person, who I'll refer to as Mr H, said they could do so because they worked at a luxury department store.

Mr A was interested in buying a particular watch and made arrangements with Mr H to transfer funds for the purchase. Mr A sent money from other accounts and made two faster payments of £2,000 each from his Monzo account.

Mr A has provided some screenshots of messages between him and Mr H. In these Mr H mentions that to hand over the watch he'd need to wait until his manager was away. Mr A kept chasing for an exchange date but was ultimately blocked by Mr H and he never received the watch. And so Mr A contacted Monzo to say he'd been scammed.

Monzo investigated but said it wouldn't be refunding Mr A. It said he'd not done enough to check Mr H was a legitimate seller. Unhappy with this response Mr A contacted our service and one of our investigator's looked into what had happened.

He recommended the complaint be upheld in part, with Mr A receiving a refund of 50% of the second payment. That recommendation was made on the basis that he believed Mr A had a fair and reasonable claim under the Contingent Reimbursement Model (CRM) Code.

Monzo isn't a signatory to the CRM Code, but it has agreed to assess scam complaints under its principles. Our investigator said that, whilst he agreed Mr A lacked a reasonable basis for believing he was making a legitimate purchase through a legitimate party, Monzo ought to have provided a scam warning that met the standards set out in the Code. He said that ought to have presented when Mr A made the second payment of £2,000.

Mr A accepted the outcome, but Monzo did not. It reaffirmed its position around Mr A's lack of reasonable basis for belief. Monzo also said it believed the warnings it gave were sufficient in the circumstances, and Mr A ignored them.

Monzo also questioned the legitimacy of the purchase as a whole, as it seemed something underhand was going on. It pointed to the messages from Mr H and the need for his manager to absent from the store, suggesting the purchase was nefarious in nature.

The case has been passed to me as an agreement between parties hasn't been reached.

What I 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.

I'm sorry to hear that Mr A has lost money here. I've little doubt that he was tricked by Mr H, and it seems more likely than not Mr A was never going to receive what he thought he was paying for. But I don't find Monzo has acted unfairly in declining Mr A's claim under the principles of the CRM Code and deciding not to refund his loss.

Much of the discussion about whether Mr A's scam claim ought to be upheld has to date been around the exceptions to reimbursement set out in the CRM Code. In most circumstances a victim of a scam ought to be refunded under the Code. But a business can choose to rely on one or more of the exceptions set out in the Code. The two that have been discussed as relevant to Mr A's complaint are:

- whether Mr A ignored an effective warning given by Monzo at the time he made the payments; and*
- whether Mr A held a reasonable basis for believing he was making a legitimate purchase through a legitimate party.*

But before those questions are answered, it's first necessary to consider whether the claim is within the scope of the Code. I don't find that it is as it doesn't meet the definition of an APP scam.

The Code defines an APP scam as:

Authorised Push Payment scam, that is, a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

Mr A did make faster payments and they were properly authorised in accordance with regulation 67 of the PSRs. So that part of the definition is met. The issue arises in considering point (ii) of the definition. Here it says that the payment must have been made by the customer (Mr A) 'for what they believed were legitimate purposes'.

I'm not satisfied that Mr A was making a legitimate purpose and I'm also satisfied he ought to have recognised that. I can accept that Mr A might have fully believed the purchase was going to go through. But that's not the point here. There were clearly signs that the purchase was not above board.

Even taken at face value, Mr H was clearly abusing a position he claimed to be in and was employing deceitful means against his employer to secure goods for people for personal gain. Essentially the evidence suggests there was a form of theft involved. There's also evidence to suggest Mr A himself intended to then make personal gains from the resale of the watch he believed he was buying.

I have considered this carefully along with what Mr A has told us about the purchase and his circumstances. I won't go over those in full here but, in summary, Mr A hasn't provided persuasive evidence to support that the purchase was being made legitimately. I'm satisfied Mr A would not have thought he was making a payment for a legitimate purpose, even if he had his own reasons and personal circumstances for doing so.

As I don't believe the circumstances here satisfy the definition of an APP scam the payments made by Mr A don't fall within scope of the Code. And so Monzo has acted fairly and reasonably in declining his claim, even if it might have explained different reasons for doing so before. And I'm not persuaded there are any other reasons it ought to refund Mr A.

This is not to say that I don't believe Mr A has been tricked or that he hasn't lost money. It's to say that aren't grounds on which I can say Monzo ought to reimburse him.

I know Mr A has received refunds from other banks he sent funds from. But that fact doesn't alter my findings here.

Monzo replied to say it had nothing further to add.

Mr A didn't accept the provisional decision. He said:

I do not agree with your decision and I do not think that you have made a fair decision.

Firstly, I would like to highlight that being exploited is something that can become hard to overcome or at the point of the time hard to realise. So to say "Mr A ignored warning" is wrong to say when you do not understand the pressure faced by these scammers. As well as this police are currently dealing with this matter and there are 7 other victims subject to this fraud from the same person. How can that not be enough evidence. There is also a hearing at court and police have stated that the scammer is on bail meanwhile.

I was tricked and groomed into paying up the money, so I would appreciate if you could look into this again and at least allow 50% of the payments please.

I would also suggest if you need further evidence to speak to the police who are dealing with this matter so you can understand how many people this scammer has taken money from and how they have been exploited.

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've thought about what Mr A has said following the provisional decision but I'm not persuaded to change the outcome.

I said in my provisional decision that I didn't doubt Mr A had been tricked by Mr H and I know he's lost money. He has been a victim here and I do sympathise with him. I've also no doubt that the police are involved and dealing with the matter.

But my reasons for not upholding his complaint were clearly set out in my provisional decision and he's not provided new evidence or information that would make me reach a different outcome. Mr A has asked that we contact the police for further information. But I can't see how that could change things and my reasons for not upholding the complaint would remain the same, even if there were concrete evidence showing Mr H was a scammer. That's because it's Mr A's own actions that mean his complaint isn't being upheld, rather than those of someone else.

Mr A has referred to ignoring an effective warning in his response to the provisional decision. That is a potential exception to reimbursement under the CRM Code, but it's not a reason I've given for the outcome I've reached.

My final decision

I don't uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 October 2023.

Ben Murray
Ombudsman