

The complaint

Mr M complains that Monzo Bank Ltd are holding him liable for transactions on his account which he didn't make.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr M says that in late April 2022 he opened his Monzo app and found that his savings pot had been emptied and his account was overdrawn. The spending used the available balance of around £1,900 and put the account nearly £1,000 into an overdraft. He says he didn't make any of the payments that resulted in this situation. He raised this with Monzo in their online chat.

Ultimately Monzo held him liable for the disputed transactions and declined to offer a refund. Being unhappy with this response, Mr M complained. When Monzo maintained their earlier decision he referred the matter to our service. Mr M's complaint was considered and one of our Investigators didn't recommend it should be upheld. In summary he said Mr M's PIN was required for several of the disputed transactions and there wasn't a plausible point of compromise for this. Mr M still disagreed and asked for an Ombudsman to review his complaint.

In November 2023 I issued a provisional decision in which I said:

"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 outcome as our Investigator. But as I'm providing a greater level of detail, I'm issuing this provisional decision to give both sides a further opportunity to comment before finalising my decision.

Some of Mr M's submissions to our service have included him referencing our Investigator using phrases such as 'most likely' etc. which he feels is vague and not definitive. Obviously neither our Investigator nor I were present when the disputed transactions took place. And we can't ever say with 100% certainty what happened. So inevitably, to decide a complaint, we must make findings on balance, based on what we think is most likely to have happened, taking account of all the information and evidence which has been provided by both parties.

Part of the evidence Mr M provided to Monzo was that an email was forwarded from his email account which contained a link to log in to the app. Mr M says he didn't send this link and believes his email account may have been compromised. There is also evidence to support that two devices (other than Mr M's own device) accessed his Monzo account (presumably through the sharing of the link I've mentioned above). So this does support the idea that there was potentially some third party involvement.

However, I've looked carefully at the payments made from Mr M's account. All these payments were card payments and they were made using 'virtual debit cards'. This is a feature Monzo offers where when used, actual debit card details remain hidden to the merchant.

Some of these payments were 'challenged' by Monzo and were further authenticated using 3DS. Monzo have said that 3DS involves a notification appearing in the Monzo app, which requires the user to enter their PIN to approve the payment. And for all these payments where 3DS was used, the PIN was correctly entered. Mr M has said that he hadn't shared or written his PIN down and that it wasn't something that could have been easily guessed. Monzo have also explained that a PIN Recovery can be done through their app, but this wasn't done between 17 April 2022 (when the first of the devices other than Mr M's accessed the app) and 26 April 2022 (when all the funds were spent). So this can't have been a point of compromise for the PIN. There is also the option to view the PIN in the app, but Monzo have likewise confirmed that this wasn't accessed in the same timeframe, negating the option for this to be a point of compromise.

Mr M's complaint is that he has no knowledge of the disputed transactions. He's also confirmed that he hadn't responded to any suspicious text messages or similar and hadn't been the victim of a scam where he was tricked into sharing any details. So given there is no plausible point of compromise for the PIN number that enabled the disputed transactions to have been made, I don't think Monzo's conclusion that Mr M had involvement in the payments such that they could be considered 'authorised' is unreasonable. I find the weight of the technical evidence surrounding the PIN to be more persuasive.

Mr M has also made several further points which include that:

- There was no contact from Monzo to alert him that his account had gone overdrawn.*
- The account activity was unusual and out of character which means Monzo should have questioned him about this. (This is particularly the case as the account had only been used previously for savings).*
- He's not been provided with evidence that the unauthorised purchases were made by him. This would include IP addresses.*
- It's possible his SIM card for his phone might have been cloned.*
- There were further attempts at spending even after the account had been blocked.*
- Many of the payments took place whilst Mr M was working (something he can prove) and his employer doesn't allow him access to his phone, meaning it couldn't have been him that made the payments.*
- Monzo didn't speak to him about this on the phone.*
- He immediately raised this with Monzo when he saw the disputed payments.*
- He didn't change his number and address that Monzo had registered for him.*
- He has reported matters to the police.*
- Monzo haven't applied the Contingent Reimbursement Model (CRM Code).*
- He hasn't been grossly negligent.*

I've considered all Mr M has said. But given I'm currently supportive of the decision Monzo made with regard to liability for the payments, this doesn't change my mind as to the outcome of the complaint. It also isn't required that Mr M himself made the payments, they can still be considered to be 'authorised' if he has given permission for another to do so. So even if Mr M were to provide evidence he was without his phone at the relevant times, this wouldn't mean he couldn't have consented to or given another person authority to make them. IP addresses can be manipulated, and I don't think they are conclusive (in isolation), even if they were available. So for the same reasons this doesn't change my mind as to the decision Monzo reached on authorisation.

Monzo did take steps to verify many of the payments, which required entry of the PIN. And I think that was a proportionate way for them to seek additional verification in the circumstances of this complaint. I assume Mr M's reference to him not being grossly negligent is in relation to the Payment Services Regulations 2017. Part of which includes that a consumer can be held liable for an unauthorised transaction if they have failed with intent or gross negligence to keep their security credentials safe. But here Monzo's conclusion isn't that these were unauthorised payments, but he is still liable due to acting negligently. Rather it is that they believe Mr M had involvement such that they are authorised payments. As such, no one is saying Mr M is liable due to him acting with gross negligence.

I'm not sure how Mr M's sim card being cloned would have enabled someone other than him to have ascertained the PIN. I accept Mr M's phone number and address was changed on the Monzo app. And I can see why he believes this supports the idea that there was third party involvement. But this isn't conclusive evidence in support of the disputed transactions being unauthorised, it is simply one factor to weigh up amongst many others.

Monzo explained their outcome to Mr M. And whilst I appreciate this wasn't what Mr M wanted to hear, I don't think they needed to share all of the information behind their outcome as a matter of course. I've heard a call between Mr M and Monzo from May 2022 in which he discussed his complaint. So I don't agree that Monzo didn't call him and overall I don't think Monzo have communicated inappropriately with Mr M.

The CRM Code that Mr M has mentioned doesn't apply to card payments. It specifically only covers certain authorised 'push' payments such as transfers or faster payments. I accept that Monzo have agreed to follow the principles of the CRM Code, but I can't say they've acted unfairly by not refunding Mr M on this basis. Firstly, Mr M's claim isn't that he was tricked into making these payments, it's that they are unauthorised. And secondly all the disputed payments were card payments which the CRM Code doesn't apply to.

I appreciate my intended outcome will be a disappointment for Mr M. But as I don't think the conclusion Monzo reached, based on the information and evidence available to them was unfair, there isn't a reasonable basis upon which I can require them to do more to resolve this complaint."

Neither Mr M nor Monzo responded to my provisional 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.

As neither party had any further evidence or comments for my consideration, I see no reason to deviate from the outcome explained in my provisional decision.

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 30 January 2024.

Richard Annandale
Ombudsman