

The complaint

Mr H complains that Monzo Bank Ltd (Monzo) wouldn't refund money he paid by mistake.

What happened

On 25 July 2022, Mr H paid £445 to the wrong recipient – as he mistyped the account number. Both the intended recipient and the recipient paid in error (who I will call 'B') banked with Monzo. On 26 July 2022, Monzo tried to recover the money from B but there weren't enough funds left in B's account – other than £39.23, which was refunded to Mr H on 26 July 2022.

Mr H complained. He said that as B also banked with Monzo, Monzo could've contacted B quicker and likely recovered the money. He referred to Monzo's terms and conditions – which said that if money was received by a customer by mistake then Monzo could take the money from the receiving account. Mr H said if Monzo complied with their terms and conditions, he should get all his money back. Mr H said he's unemployed and needs the money to live.

Monzo said they'd followed their 'credit payment recovery' (CPR) process – which meant that they had up to 20 working days to reach out to the recipient's bank, who then had to get consent from the account holder to send the money back. But – there was no guarantee that this would be successful. Monzo offered to provide Mr H with the recipient's name and address which he could use to try to recover his money. Monzo said that while they took action within their internal timescales, they might have acted sooner, and paid compensation of £40.

Mr H brought his complaint to us. Our investigator upheld it and said Monzo should refund the remaining amount of money, plus compensation of £100. He said:

- Because B banked with Monzo, Monzo could've attempted recovery faster than they did.
- He pointed to Monzo's terms and conditions which said that if someone received money into their Monzo account by mistake, then they give Monzo permission to remove the money and return it to the sender.
- Although there weren't enough funds available in B's account on 26 July 2022, the terms and conditions don't say Monzo would only try once to recover the money.
- He said that Monzo should've monitored B's account and returned the money when funds became available.

Mr B agreed, but Monzo didn't. They said:

- They contacted recipient customer B on 26 July 2022 – in line with their internal guidelines, and then no funds remained.
- They couldn't contact B earlier – as the recovery was placed in a queue to deal with

alongside other customers who had similar claims. They couldn't fairly prioritise Mr H's case ahead of others.

- The CPR process was for 20 working days – and at the end of that time, no funds remained to pay back. Monzo couldn't be expected to (effectively) open a second CPR to try to recover funds after the first one ran out. The CPR process was for a 'one time' recovery from B.
- In Mr H's chat with Monzo when he contacted them he acted there were 'no guarantees' of success.
- Monzo said their terms and conditions regarding customers who made a mistaken payment – said the money couldn't be recovered (even though they would try to do so).

Monzo asked that an ombudsman look at Mr H's complaint.

I made a provisional decision which said:

The relevant guidance here is laid down by the Faster Payments service. In January 2016, it issued guidelines concerning mistaken payments, and when amounts might be repaid.

The guidelines apply where:

- a customer has made a payment in error;
- there's clear evidence of a genuine mistake;
- the recipient doesn't dispute what happened; and
- the money's still available.

The guidelines further say that when it's told about a mistake, the sending bank (i.e. Monzo in this case) must contact the receiving bank within two working days. If the mistake's clear, it should ask the receiving bank to prevent the money being spent. If the money's still available and the recipient doesn't dispute what happened, the sender (i.e. Mr H) should get the money back within 20 working days.

If it's not possible to get the money back – for example, if it's been spent, the sender should be told about the outcome within 20 working days from the point of their enquiry. The sending bank should also tell their customer about other options, such as pursuing the recipient. **(continued)**

I've looked at Mr H's complaint with this guidance in mind.

Payment in error / by mistake: It's not in dispute that Mr H made the payment by mistake.

Availability of money: Monzo told us they looked at the recipient's account on 26 July 2022 and by then, insufficient funds remained – other than the £39.23 which was paid to Mr H. Monzo showed our service the recipient's statements and that was indeed the case. So – in

line the guidance which I've referred to, Monzo couldn't refund any more money than they did – as it wasn't available.

Timelines: Monzo did try to recover the money the day after Mr H contacted them – i.e. within the two-day guideline I've quoted. Mr H argues that Monzo should've done so earlier – as B banked with Monzo. But the guidelines make no reference to where both parties bank with the same bank. So here - I don't think it's therefore reasonable to expect Monzo to act differently where that's the case.

And I agree with Monzo's argument – that it wouldn't have been fair to other customers to prioritise Mr H's claim ahead of theirs.

Monzo's final response said they could've acted quicker and paid compensation of £40. I'm not sure why they did that – as they did act within the necessary timelines as laid down.

Our investigator has indicated that Monzo should've monitored B's account throughout the 20-working day period of the CPR to see if funds became available. The guidelines don't include that firms have to make multiple (or daily) attempts to recover funds - and I don't think it's reasonable to place such an onus on firms to do that. I've also seen that at the end of the 20-working day period (23 August 2022) - there weren't any funds available in B's account to return.

Mr H has quoted Monzo's terms and conditions for where money is put into a Monzo account by mistake (as was the case here). These say *"It's possible that someone may pay money into your account by mistake....If this happens, you give us permission to remove the equivalent amount from your account or return the payment to the sender. We don't need to tell you before we do this and we may also provide details about you to the sender's bank to help them get the money back."* I've considered this – and I agree it gives Monzo the right to take back money from B's account. But in this case – there simply weren't enough funds available to do so, so I can't reasonably expect Monzo to refund the money if it wasn't in the account of B.

Monzo have said their terms and conditions also say regarding payment by an account holder (i.e. Mr H) : *"you won't be able to claim back money you've lost if:...you gave us incorrect instructions or we can prove that the bank we sent your payment to received it (although we'll still try to help you recover your money)"*. In other words – while Monzo will try to get the money back, there's no guarantees it will do so.

Therefore, overall and in the circumstances of this complaint, I think Monzo acted reasonably, and while I accept that Mr H will be disappointed by this provisional decision, I do not propose that Monzo need to do anymore here. **(continued)**

Responses to the provisional decision:

Monzo made no comments, but Mr H's representative did. She said:

- I made three errors in the provisional decision: (1) that it was Mr H and not Monzo who asked for the ombudsman's decision (2) that I referred to Mr H as Mr B in one

place (3) that I said £39.23 was received by Mr H on 26 July 2022 – when it was received on 17 August 2022. And – that was after Mr H had to chase Monzo.

- The CPR process (giving Monzo 20 days to reach out to the recipient) conflicted with their terms and conditions where the recipient banks with Monzo. She quoted the term which said Monzo could take back money from one of its customers if it had been received in error.
- Monzo had admitted its error by paying compensation of £40.
- The recipient has committed an offence under the Theft Act 1968.

I now need to consider these points and make a final 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.

On my errors – I apologise for referring to Mr H as Mr B in one place, and I agree the refund was received on 17 August 2022, and not on 26 July 2022.

I said it was Monzo who asked for a review by an ombudsman – and that was the case. To clarify, what that comment reflects is our process which is:

- The investigator issues a 'view' for agreement by (in this case) Monzo and Mr H.
- If either party doesn't agree with it, they can ask for the complaint to be referred to an ombudsman for a full, fresh, and independent review. So – that may lead to a different decision, which is what has happened here. It's understandable that in some cases, that will cause some disappointment for one party or the other – where the decision is changed.
- In this case, Monzo didn't agree with the investigator's view and asked for an ombudsman to look at Mr H's complaint.

Turning to Monzo's terms and conditions. I considered that the effect of the term as regards the recipient – gave them the right to take money from the recipient's account. But – that doesn't mean to say that Monzo are obliged to refund it to Mr H.

As I said – there's a further term (as regards the payer – Mr H) – which says, "*you won't be able to claim back money you've lost if:...you gave us incorrect instructions... (although we'll still try to help you recover your money)*". And it's important to note that this term refers to the payer – Mr H. And it was this, added to the industry guidance that I referred to – that caused me to make the provisional decision I did.

Monzo paid compensation of £40 – I looked at this again. Monzo paid it "*(for) delays in the service we provided to you and as an apology I have credited your account with £40.00.*" To be clear, I don't think that was an admittance that Mr H should've got his money back, but rather that he had to call Monzo to chase things up (as Mr H's rep has said).

Mr H's representative mentions the Theft Act 1968. I make no comment on that - as this service is an informal dispute resolution service which makes decisions based on 'fair and reasonable' principles. Mr H may still be able to pursue matters through the courts (as our cover email will say), but that's for him to decide. Monzo did offer to provide the contact

details of the recipient – if Mr H wishes to go down that route.

I'm grateful for the points that Mr H's representative has made, and I hope my comments clarify and address what she's said. But having reviewed Mr H's complaint again, I'm satisfied that it is fair and reasonable that my final decision is unchanged from the provisional decision.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 November 2023.

Martin Lord
Ombudsman