

The complaint

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

What happened

- Mr A sent two faster payments – one for £80 the next for £600 – to purchase an iPhone through Facebook Marketplace. Mr A didn't realise at the time, but he'd fallen victim to a scam.
- Mr A has explained how he found the advert for an iPhone 13 Pro Max 1TB on Facebook having found cheaper options on eBay. But he'd seen that those didn't have as good a battery health as the Facebook one.
- He initially asked the seller if he could collect the phone in person. But that wasn't a viable option given the distance between him and the seller, so he agreed to receive it by post.
- He asked the seller to provide their bank details, a copy of their driving license, the original purchase invoice, and a photo of their bank card next to the phone. Mr A was happy to proceed once all was received.
- Mr A sent the £80 and the seller confirmed receipt, so Mr A sent the remaining £600 of the agreed price.
- Mr A realised he'd been scammed when the phone didn't arrive. He also thinks he found the same phone advertised for sale under a different name. He contacted Monzo to report what had happened.
- Monzo investigated but said it wouldn't refund Mr A. It thought about how the Contingent Reimbursement Model Code might apply (having agreed to abide by the spirit of the Code, whilst not a signatory to it). It felt it had delivered sufficient warnings about scams and had given information about how Mr A could protect himself. It also said he didn't take reasonable steps to ensure the seller was legitimate.
- Mr A brought his complaint to our service as he was unhappy with Monzo's response. One of our investigators considered what had happened and upheld the complaint.
- She said there wasn't a requirement for Monzo to provide an effective warning under the Code. That was because the payments made by Mr A didn't clearly present as a scam risk. But as Monzo had referred to the warning it did give, she said it was a generic warning that didn't bring the scam to life. So Monzo couldn't rely on it to deny Mr A a refund.
- She went on to say that she didn't think it was fair for Monzo to have said Mr A hadn't acted reasonably. She noted:
 - the price wasn't too good to be true, having seen a reasonable price range lay between £600 and £800 for the model of phone Mr A believed he was buying;
 - Mr A had checked other websites for similar phones and even found cheaper

options elsewhere;

- Mr A wanted to collect the phone in person but was given an understandable reason for why this was not possible;
 - he obtained copies of the driving license etc. to verify the seller's identity;
 - there was nothing alarming within the chat with the seller;
 - although there wasn't a confirmation of payee match to the first payment, Mr A was reassured that it had arrived without issue and to the bank account nominated by the seller, which had also been confirmed by the debit card.
- Mr A had asked for compensation for Monzo's delay in answering his claim. Our investigator could see £55 and already been offered in compensation, and she felt that was fair in the circumstances.
- Mr A agreed with the outcome, but Monzo didn't. In summary, it said:
 - the price of a refurbished phone of the same model on Apple's website was £849, noting this was ten months after Mr A's attempted purchase;
 - it didn't think Mr A's wish to collect the phone in person lent anything to his basis of belief;
 - Mr A could have asked for photos of the phone or a video of the product to demonstrate battery life;
 - he could have paid via PayPal;
 - the information that was shared with Mr A (the driving license etc.) could have been falsified and provided no guarantees the seller was genuine;
 - it was suspicious that a 76-year-old woman was selling a modern iPhone and was so 'tech savvy';
 - the hands in the photos Mr A was provided didn't look like those of a 76 year old;
 - the first payment reaching the recipient was not evidence to suggest the seller was genuine.
 - it referred to Facebook Marketplace's Terms and Conditions which discuss protection from scams.
- The case has been referred to me for 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.

I'm upholding Mr A's complaint and for broadly the same reasons as our investigator. I'll explain why.

A customer is generally responsible for all payments made from their account that are properly authorised. The liability for such payments is set out in the Payment Service Regulations (2017) and is confirmed in Mr A's account terms and conditions. But authorisation isn't the only relevant consideration here, and it's accepted by all parties that Mr A did authorise the transactions, albeit under false pretences.

Monzo has agreed to abide by the principles of the Lending Standards Board's voluntary Contingent Reimbursement Model (CRM) Code, although it isn't a signatory. The Code is in place to see the victims of fraud reimbursed in most cases.

But there are exceptions to reimbursement that a firm can rely on to deny a refund to a scam victim. There are two exceptions relevant to this case, and they can be summarised in the form of two questions:

- did Mr A ignore an effective warning, given whilst he was making the payments?
- did Mr A hold a reasonable basis for believing he was transacting with legitimate parties for legitimate purposes?

Did Mr A ignore an effective warning, given whilst he was making the payments?

I don't believe Monzo needed to deliver Mr A an effective warning for either of the payments he made. That's because, given their relatively low value, it's understandable that Monzo wouldn't have identified them as potential scam risks. But Monzo has made comment on the warnings it gave so I'll comment on them.

As our investigator said, the warnings given by Monzo were generic. I wouldn't necessarily expect it to have given a more thorough warning, given what I've already said. But it can't fairly and reasonably be said that Mr A was given clear and impactful information relevant to the scam he was caught up in, or how to avoid it. So Monzo can't rely on the effective warning exception to reimbursement.

Did Mr A hold a reasonable basis for believing he was transacting with legitimate parties for legitimate purposes?

I'm satisfied Mr A did hold a reasonable basis for belief and that he carried out proportionate checks on the seller and the item being bought. I don't intend to relist all the steps he took. I'm satisfied he was thorough in trying to establish the seller and item's legitimacy.

That he was provided with evidence which appeared to show official ID that matched to a bank account, debit card, and purchase invoice – as well as the seller's profile – was understandably very persuasive. I believe he acted fairly and reasonably in the circumstances. There are comments made by Monzo that I find expect too high a level of scrutiny, and go beyond the assessment of a *reasonable* basis of belief, in all the circumstances.

Monzo has commented on the price agreed from the phone and has referred to the cost of the same refurbished model if bought direct from Apple. Its intention here is to suggest that the price offered was too good to be true and ought to have caused alarm.

Mr A has said that he'd shopped around and found the same model at the same price or less. It's true we haven't seen evidence to confirm that. And there is some difficulty in looking now, given the value of the phone will have further decreased over time.

But I'm not persuaded Monzo's sourced price gives an accurate reflection of the broad second-hand phone market. It's quoted one source and that is the manufacturer. I'd expect prices there to be the highest around. The amount private individuals and other sellers would be willing to accept is more likely than not going to be lower. It's also the case that the price is for a fully refurbished phone, which isn't what Mr A believed he was buying.

If you look to create a post on eBay today – a site Mr A says he checked at the time – the platform states that the average sale price for the exact same model is £598.50. Whilst I can't be certain, that would appear to go some way to corroborate what Mr A has said about the prices he saw.

I have considered the other arguments made by Monzo but I'm not going to address all of them. They do not – individually or cumulatively – lead me to believe Mr A didn't hold a reasonable basis of belief and I find he carried out a proportionate level of checks when attempting to buy the phone.

Conclusion

I've found that it was unreasonable for Monzo to rely on the exceptions to reimbursement set out in the Code. It ought to have refunded Mr A when it considered his claim and so it's fair and reasonable that it does so now.

Mr A accepted the investigator's findings, including those on the level of compensation. As such I don't intend to make any comment on the £55 that I consider to have now been offered and accepted.

Putting things right

Monzo should, upon Mr A's acceptance:

- refund the £680 lost to the scam;
- pay interest on that amount at 8% simple per year, calculated from the date it ought to have given its answer to the claim by (35 days from Mr A's reporting of the scam) until the date of settlement; *and*
- pay the £55 compensation if it hasn't already.

My final decision

I 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 8 February 2024.

Ben Murray
Ombudsman