

## The complaint

Miss E complains that Monzo Bank Ltd won't reimburse her the money she transferred to a fraudster.

Miss E is represented by her father in bringing this complaint. But for ease of reading, I'll refer to any submissions and comments made as being made by Miss E herself.

## What happened

Miss E was looking to purchase a second-hand phone. She initially told us she asked on one of her social media platforms if anyone knew of any for sale and received a response from a friend providing contact details for a seller. Miss E has said the seller had mutual friends with her and that friends could vouch for him. In later correspondence with Miss E, she's said she initially contacted the seller on his social media business page, but after receiving no response, obtained his number from a customer he'd 'tagged' in a photo.

Miss E has explained she agreed to pay this seller £500 for a specific iPhone she wanted. Miss E has said she was under the impression that she was purchasing the phone directly from the seller she was talking to, however it later transpired that this seller was in fact intending to purchase the phone from another third party. Miss E hasn't been able to provide the correspondence she had with her direct sales contact *before* the scam occurred but has provided evidence of the conversation between her sales contact and the third party, agreeing the sale.

Miss E has explained she sent £500 by faster payment as agreed to her sales contact, via online banking. She has said she did ask if she could pay by PayPal, but that this wasn't accepted by the seller. However, shortly after the payment was made, the seller told her he had actually sent her money to a third party to purchase the phone and that this third party had now blocked him. Miss E realised at this point she'd been the victim of a scam and contacted Monzo to report it. She also continued to discuss a refund with her sales contact and while this was initially agreed to, it appears no refund was ever made.

Miss E first contacted Monzo within an hour of making the faster payment. However, she advised Monzo she didn't make the payment of £500 herself and was therefore directed to a team who would be able to help with unauthorised payments. Around four days later, Miss E contacted Monzo again and further questions were asked to better understand what had happened. Miss E told Monzo that she'd attempted to purchase a phone, but her payment had been declined. She said she then received a call from an individual purporting to be from Monzo who knew all her details, that she shared her security pin with this individual and that when she then checked her account, there was a payment to a different payee's name and her money was gone. It was around six days after this that Miss E confirmed to Monzo that she had in fact sent the payment herself.

Monzo investigated Miss E's fraud claim and considered its obligations to provide Miss E with a refund. Monzo has agreed to act in the spirit of the Lending Standards Board Contingent Reimbursement Model (CRM) Code, although it isn't a signatory of it. The CRM Code requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances. Monzo says one or more of those exceptions applies in this case.

Monzo has said Miss E didn't have a reasonable basis for believing she was making a genuine payment. Monzo considers Miss E ought to have done more checks to make sure the person she was making the payment to was genuine. However Monzo did acknowledge that there were delays in providing a final response to Miss E and awarded £125 in compensation.

It also contacted the beneficiary bank to attempt to recover Miss E's money, but unfortunately no funds remained in the account.

Miss E disagreed with Monzo so brought the complaint to our service. One of our investigators considered the case and didn't uphold it – she thought that, in the circumstances, Miss E ought to have completed further checks to verify that she was dealing with a genuine seller. The investigator therefore didn't consider that Monzo needed to do anything to put things right for Miss E.

Miss E didn't agree with the investigator, so the case has been referred 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, while I'm sorry to disappoint Miss E, I'm not upholding her complaint. I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

When thinking about what is fair and reasonable in this case, I've considered whether Monzo should have reimbursed Miss E under the provisions of the CRM Code and whether it ought to have done more to protect Miss E from the possibility of financial harm from fraud.

There's no dispute here that Miss E was tricked into making the payment. She thought she was making a genuine payment for a mobile phone and that didn't happen. But this isn't enough, in and of itself, for Miss E to receive a refund under the CRM Code. The Code places a level of care on Miss E too.

#### *The CRM Code*

As I've mentioned, Monzo has agreed to act in the spirit of the Lending Standards Board Contingent Reimbursement Model (CRM) Code, although it isn't a signatory of it. The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances and it is for Monzo to establish that a customer failed to meet one of the listed exceptions set out in the CRM Code.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that\*:

- The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning

- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate

*\*Further exceptions outlined in the CRM Code do not apply to this case.*

I think Monzo has been able to establish that it may choose not to fully reimburse Miss E under the terms of the CRM Code. I'm persuaded one of the listed exceptions to reimbursement under the provisions of the CRM Code applies.

Taking into account all of the circumstances of this case, including the characteristics of the customer and the complexity of the scam, I think the concerns Monzo has raised about the legitimacy of the transaction Miss E was making are enough to support its position that she didn't have a reasonable basis for believing she was paying for genuine goods. I'll explain why.

Miss E's testimony regarding how she came into contact with who she believed was the seller hasn't remained consistent during her conversations with Monzo or our service. Where evidence is inconsistent, this unfortunately impacts how much weight our service is able to place on a consumer's testimony, particularly in cases like this where unfortunately some parts of conversations between Miss E and the seller couldn't be provided, or were conducted by telephone. While Miss E has, at times, told our service that she had mutual friends with the seller who could vouch for him, she's also referred to obtaining his contact details from social media platforms through individuals tagged in photos. It therefore remains unclear how initial contact was made with the seller, and how genuine this contact would've appeared to Miss E.

Miss E has said she was unaware that the seller was in fact purchasing her phone through a third party and taking a percentage of the funds for himself. However, from the conversations I've seen between the seller and third party, it appears the price agreed with the third party was the payment Miss E made to the seller. It's therefore also unclear how the seller was benefitting from this arrangement – and again unfortunately we have no evidence to confirm what was discussed between Miss E and the seller, prior to the payment taking place.

Based on the lack of consistency in testimony, it becomes unclear what checks Miss E did do in order to satisfy herself that she was making a payment for genuine goods. In any event, Miss E appears to acknowledge that she didn't know the seller personally and had asked to make a payment via a more secure platform which had been refused by the seller. Miss E was also paying less than the expected value for the phone she had requested, which I think was also a red flag and ought to have caused Miss E to make further enquiries before making a purchase.

With all of the above in mind, in the particular circumstances of this case, I consider that Miss E ought to have had concerns about the payment for goods she was making and that, in turn, ought to have led to a greater degree of checking on Miss E's part. In not carrying out sufficient checks I don't find she had a reasonable basis for believing she was purchasing genuine goods and so fell below the level of care expected of her under the CRM Code.

*Should Monzo have done more to try to prevent the scam and protect Miss E?*

I've thought about whether Monzo did enough to protect Miss E from financial harm.

The CRM Code says that where firms identify APP scam risks in a payment journey, they should provide Effective Warnings to their customers. The Code also says that the assessment of whether a firm has met a standard or not should involve consideration of whether compliance with that standard would have had a material effect on preventing the scam.

I am also mindful that when Miss E made this payment, Monzo should fairly and reasonably also 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).

Having considered the payment Miss E made, I don't think it was so remarkable, in comparison to her usual account activity, that it should've appeared as suspicious to Monzo. I therefore don't think Monzo failed to meet its standards under the Code by not providing Miss E with an effective warning, prior to processing the payment.

Once it was made aware of the scam (and that Miss E *had* made the payment herself), Monzo tried to recover Miss E's funds, but unfortunately was advised by the beneficiary account that no funds remained. I don't think Monzo could reasonably have done anything further to recover Miss E's payment – particularly as Miss E's payment went via another individual's account before being passed on to the fraudster.

Overall, I'm satisfied that Monzo's position on Miss E's fraud claim, and its assessment under the CRM Code, is fair and reasonable in all of the circumstances and that Monzo shouldn't be held liable for Miss E's losses. And so I don't intend to make an award to Miss E. I've also considered whether the compensation already awarded by Monzo is fair to reflect the additional time it took to investigate Miss E's complaint. Having reviewed the conversation between Monzo and Miss E, I can see why Miss E was frustrated by the lack of update and repetition at times in responses provided. However I've also considered that Miss E too caused delays in the investigation by providing conflicting information about how the scam had taken place. With this in mind, I think the £125 already offered by Monzo is fair compensation to acknowledge any distress or inconvenience its delays caused.

I do sympathise with Miss E as she's clearly been the victim of a cruel scam. And I don't doubt Miss E genuinely believed she was purchasing a phone. But the circumstances of the case and the evidence available lead me to find I'm unable to uphold this complaint.

### **My final decision**

My final decision is that I do not uphold Miss E's complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 13 March 2024.

Kirsty Upton  
**Ombudsman**