

The complaint

Miss O complains that Monzo Bank Ltd (“Monzo”) failed to refund a transaction she didn’t recognise.

What happened

What Miss O says

Miss O explained that she was in a relationship at the time and believes her partner used her Monzo card to make a payment from her account without her permission.

Miss O went on to say she experienced a difficult time with her partner and reported him to the police for his behaviour towards her. Miss O said she asked him about the unrecognised payment, and he admitted to her it was him.

Miss O asked Monzo for a refund but they declined this based on their belief that Miss O herself was responsible.

Miss O told Monzo that her phone didn’t have any security enabled and both her phone and card were at home at the time of the unrecognised payment. Her ex-partner was also in the house on that day.

Miss O complained to Monzo about their handling of her situation and their repeated requests to complete the same security steps. Miss O also asked Monzo to contact the merchant who received the disputed transaction.

Miss O’s complaint wasn’t upheld by Monzo and Miss O then brought her issue to the Financial Ombudsman Service for an independent review.

What Monzo said

Monzo received Miss O’s request for a refund and examined how the payment had been made. They concluded that based on the circumstances and the data from the payment that she herself was responsible. Monzo’s records showed that biometric security had been enabled on Miss O’s phone and used to confirm the disputed payment. Monzo declined a refund and advised her that they were closing her account.

The investigation so far

Both parties were asked to provide information about the payment and Miss O was able to say that:

- Her card was in her purse at the time and Miss O wasn’t sure if her ex-partner could have taken it, but believed he was responsible when he admitted this to her.
- She hadn’t got security enabled on her phone due to mental health reasons.
- Miss O attempted to contact the merchant who received the payment, but they

wouldn't discuss the transaction with her.

- Her ex- partner was verbally abusive to her.
- She hadn't disclosed any of her account details or security information with her ex-partner.
- She hadn't given her details to anyone else or followed any suspicious emails or requests to enter details on other websites.

Monzo didn't respond to the original requests for information, so the investigator wrote his recommendations based on Miss O's version of events. Miss O's complaint was upheld and a recommendation that Monzo repay the disputed transaction. There was also a recommendation to pay compensation for Monzo's delays with their investigation.

Monzo were then able to provide their information about the payment and their interaction with Miss O. In summary this said:

- Miss O provided information suggesting the disputed transaction was carried out by her ex-partner without her permission.
- Miss O had stated there was no security enabled on her phone, but Monzo's records show biometric security (fingerprint/facial id) was set up on Miss O's phone to use with her Monzo account.
- The disputed transaction was made using her card details and a second security step called 3DS which was confirmed by Miss O's phone using biometric authentication.
- There was only one phone registered to Miss O's account at the time.
- Miss O said she was stressed and suffering from additional mental health issues as a result of this payment and Monzo offered support which Miss O didn't take up.
- Miss O was asked to complete additional security on a few occasions due to the appearance of another device trying to log in to her account sometime after the disputed transaction.

The investigator reviewed the evidence provided by Monzo and based on the audit data concerning how the payment was authenticated, he didn't uphold the complaint. In summary he said:

- Only one device was registered to Miss O's account.
- This was set up to use biometric security contrary to what Miss O had said.
- It was likely Miss O herself authenticated the 3DS through her own biometrics.
- Monzo's decision to close the account was reasonable.

Miss O disagreed with the investigator's recommendations and asked for a further review of her complaint. Miss O asked for a copy of the evidence that had been relied on to make the recommendations.

As no agreement could be reached, the complaint has now been passed 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.

The relevant law surrounding authorisations are the Payment Service Regulations 2017. The basic position is that Monzo can hold Miss O liable for the disputed payment if the evidence suggests that it's more likely than not that she made them or authorised them.

Monzo can only refuse to refund unauthorised payments if it can prove Miss O authorised the transactions, but Monzo cannot say that the use of the card details for an online payment conclusively proves that the payments were authorised.

Unless Monzo can show that consent has been given, it has no authority to make the payment or to debit Miss O's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to Miss O. I'll now need to consider the information provided by both parties to determine whether there's sufficient evidence to hold Miss O responsible for the disputed transactions or not.

It's Miss O's case that this payment was carried out by her ex-partner after he gained access to her phone and card. Miss O has maintained throughout the complaint process that she hadn't got any security set up on her phone. Monzo's records show that biometric security was set up and used on Miss O's phone registered with her account.

There's clearly a difference between what the parties believe here, and where there is a dispute about what happened, and the evidence is incomplete or contradictory, I must reach my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

Miss O's version of events concerning an ex-partner is, on the face of it, plausible. This is particularly the case when there's an element of control being exerted here by the ex-partner which Miss O has told us about. I asked Monzo for further evidence regarding the biometric settings on Miss O's account. Monzo's evidence shows that biometric security was enabled and used with Miss O's own phone.

So, whilst biometric security had been enabled for the Monzo app, it would also require a personal identification number (PIN) to be set up as well. Miss O has said she hadn't shared any PIN's with her ex-partner. So, it's unlikely that the Monzo app could have been accessed by her ex-partner using a PIN (because he didn't know it) and he couldn't use biometrics as this would be specific to Miss O. Records show that the Monzo app was accessed at the time of the payment and the 3DS procedure confirmed. Monzo have also provided evidence of numerous other transactions that also used the 3DS process to confirm transactions.

Whilst I appreciate Miss O's belief that the payment was made by her ex-partner, I'm afraid the technical evidence doesn't support that. Miss O has said that she hadn't used a PIN with her phone and whilst that may be the case, the issue here is that the Monzo app required separate security steps to access it. So, even if the phone was left unprotected, the user would still need either the PIN or be able to use biometrics to open the Monzo app.

I did think about the investigation carried out by Monzo and I've no doubt that Miss O wanted a quicker resolution, but overall, I don't think Monzo took overly long to complete their investigation. The request for multiple security processes was no doubt frustrating to Miss O, but at the time, Monzo had seen an unusual device trying to access her account. I don't think this was an unreasonable step for Monzo to take.

Monzo's decision to close the account was made in line with the terms laid out in their agreement with Miss O. Either party can end the relationship and Monzo have relied on the immediate closure provisions set out in the agreement, which I think was both a fair and reasonable decision for them to make based on their assessment of the situation at the time. I won't be asking them to do anything more.

So, the evidence that I've considered leads me to the conclusion that, on the balance of probabilities, it was more likely than not that Miss O authorised this payment. So, taking everything into account, I think it is fair and reasonable for Monzo to hold Miss O responsible for this transaction.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 2 April 2024.

David Perry
Ombudsman