

## **The complaint**

Mr A complains that Monzo Bank Ltd won't refund money he lost when he fell victim to a car purchase scam.

Mr S is being represented by a claims management company in his complaint.

## **What happened**

The background to this complaint is well-known to both parties, so I won't repeat it all here. But briefly, and based on the submissions of both parties, I understand it to be as follows.

Mr A saw a car for sale, on a well-known social media online marketplace, that he was interested in buying. He messaged the advertiser who told him that they had posted the advertisement for a friend. Mr A was provided an email address to directly contact the seller.

The seller provided Mr A further information and additional pictures of the car and said they were looking to sell it for £5,000 as they wanted to get rid of it as soon as possible. They explained they had recently divorced, and the car belonged to their ex-partner.

Mr A told the seller he was very interested and asked if it was possible to see the car. The seller explained they were currently abroad due to work and had therefore employed an online escrow service to handle the sale. They advised Mr A that he would make the payment to the escrow service, and they would deliver the car within 48 hours. He would then have seven days to inspect it. The funds would be released to the seller if Mr A was happy, otherwise the escrow service would deliver the car back to the seller at no cost to Mr A and he would get a full refund.

Mr A has said that his research into the escrow service corroborated the seller's explanation of how it worked. He carried out a used vehicle check to satisfy himself that there were no issues with the car before agreeing to make the payment to the escrow service. He first sent £1 to the details provided by the seller, followed by a further transaction for the remaining amount of £4,999. The beneficiary account name was in the name of an individual, who the seller said was a representative of the escrow service. When the car didn't arrive within the stipulated period and the seller stopped responding to Mr A's emails, he realised he had fallen victim to a scam.

Monzo was unable to recover the funds from the beneficiary bank and refused to refund the transactions. It said it provided a warning to Mr A at the time of the payment and he didn't take reasonable steps to check who he was paying. Our investigator upheld the complaint as they were satisfied that Mr A had carried out reasonable checks. They also concluded that the warning Monzo had provided wasn't effective and it didn't apply to Mr A's circumstances. So, they recommended Monzo to refund both payments in full along with interest.

Monzo didn't agree with the investigator's findings. In summary, it said that a vehicle check doesn't prove the legitimacy of the purchase itself. And that Mr A could have done further diligence by requesting a video tour or video call to verify the existence of the car.

I issued my provisional decision last month. I said that I intended reaching the same overall conclusion as the investigator, but the redress I planned on awarding was different.

I invited further comments from both parties. Both Monzo and Mr A accepted my provisional decision. So, what follows is my provisional decision made final.

### **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.

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 bank 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 customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse them, even though they authorised the payment.

Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model ("CRM") Code – although it isn't a signatory – which 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.

I've therefore considered whether Monzo should reimburse some or all of the money Mr A lost in line with the provisions of the CRM Code it has agreed to adhere to, and whether it ought to have done more to protect Mr A from the possibility of financial harm from fraud.

There's no dispute here that Mr A has been the victim of a scam. He was tricked into making the payment and didn't receive anything in return for his money. But this isn't enough, in and of itself, for Mr A to receive a refund of all of the money he's lost from the bank.

Under the provisions of the CRM Code, both the bank and its customer have obligations. If it can be shown that the customer has met their requisite level of care, then they will receive full reimbursement. If the customer has not done this, then it is for the firm to show that it has met its obligations under the Code, one of which is the provision of an Effective Warning when the firm identifies an APP scam risk in a payment journey. If a firm has not met its obligations then it, subject to any liability by the bank which received the money, will be liable for 50% of the customer's loss.

Having carefully considered the circumstances of this case, I don't think Mr A had a reasonable basis for believing the payment was for genuine goods, but neither do I think Monzo provided an 'Effective Warning' to him when it should have done. So, I conclude that the fair outcome is for Monzo to refund 50% of Mr A's losses stemming from the second transaction (£4,999). I'll explain why.

#### ***Did Mr A meet his Requisite Level of Care under the CRM Code?***

I've first considered whether Mr A failed to take the requisite level of care required for Monzo to choose not to reimburse him under the terms of the CRM Code which it has agreed to adhere to.

The exceptions set out in the CRM Code that are relevant to this case are:

- The customer ignored an Effective Warning in relation to the payment being made.
- The customer made the payment without 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.

*Did Mr A ignore an Effective Warning?*

Monzo says it provided an Effective Warning in relation to the payments Mr A was making. Looking at the information it's provided, I can see that Monzo displayed a warning at the time of the first transaction (£1) only. There was no further warning when Mr A made the next transaction (£4,999).

Given the amount involved in the first transaction, I don't find that Monzo was required to deliver an Effective Warning as expected under the Code. While I accept that a new payee was created, this in and of itself doesn't imply that there was a clear deviation from how the account was usually run such that I think it looked unusual or suspicious. Under the circumstances, I think the warning Monzo provided at the time was proportionate to the risk involved.

Thinking next about the second transaction, as I've mentioned, there was no warning provided. But I have considered the warning that Monzo provided approximately 15 minutes earlier when Mr A sent the first payment. Monzo has described it as a 'low friction' warning. Having reviewed the warning's content, I can see it provides generic information which can apply to more than one type of scam risk. In the circumstances of Mr A's case, I consider an Effective Warning to be one which is aimed at trying to reduce the prospect of a vehicle purchase scam from succeeding.

Given the warning Monzo displayed wasn't specific to the type of scam Mr A had fallen victim to, it follows that he can't be fairly said to have ignored it in the context of the second transaction. I don't think the generic information Mr A was presented with should have resonated with him to such an extent that it should have had a material effect in preventing the vehicle purchase scam that took place. The information he was presented with was not designed to affect his decision-making so that the prospect of this vehicle purchase scam succeeding was reduced.

*Did Mr A have a reasonable basis for believing the payment he made was legitimate?*

I've also thought about the steps Mr A took to reassure himself about the legitimacy of the transaction and whether it was reasonable for him to proceed with the payment. Having done so, I am not currently persuaded that Mr A had a reasonable basis for believing that the payee was the person he was expecting to pay, the payment was for genuine goods or services and the person or business he transacted with was legitimate.

This is not a finding I've made lightly. I'm mindful that this was a sophisticated scam. From what Mr A has told us, the fraudster went a long way towards building his trust and lowering his defences. They provided a reason for why he couldn't inspect the car in person. And they introduced the escrow service into the scam which gave Mr A some reassurance that his transaction was more secure. But the car Mr A wanted to purchase was advertised for sale at £5,000 including delivery to his address. Having reviewed recognised industry trade guides that provide average car sale prices based on make, model, vehicle age and

mileage, this price is considerably less than what a comparable car was being sold for at the time of the scam. The information I have seen suggests the typical market value for this car with this specification and in this condition was between £23,500 and £24,500.

It's not clear whether Mr A was aware that the car was priced way below its market value at the time he first saw the advertisement; I understand he wasn't specifically researching this make and model. I recognise that the fraudster told him they were looking to make a quick sale given their recent divorce. So, I do accept that under such circumstances a car might not achieve a price towards the top end of the estimated ranges. But I think Mr A should have been much more sceptical about why someone would be willing to sell this car for so much under its market value – despite what they'd already told him.

Additionally, Mr A was aware that he was paying an individual. When recently questioned, Mr A told us he thought the account holder was the owner of the escrow service. So, it made sense to him that the payment would need to go to that beneficiary. But according to the correspondence I've seen between him and the fraudster, they told him the individual was a representative of the escrow service. Notwithstanding this discrepancy, I think Mr A should have been more concerned about this than he ultimately was, especially against the backdrop that he could not view the car in person. I can't see that he questioned why he was paying an individual's personal account rather than the escrow firm's corporate account. The genuine escrow service's website sets out the steps involved in transacting the sale or purchase of a car. It explains that the buyer submits the payment to the firm's secure account. The website also explains that if a payment is requested to an individual instead of a corporate entity, it is fraudulent.

I accept that Mr A did undertake some checks, but he ultimately placed a lot of trust in strangers. I consider that Mr A ought to have had greater concerns about the deal and that, in turn, ought to have led to a greater degree of scrutiny on his part. Buying a car at a considerable discount without seeing it first was always a big risk. I think Mr A should have had done more than he did to question the arrangement before paying any money. By not carrying out sufficient checks to independently verify the situation when the purported sale price was so far under the true value, Mr A didn't have a reasonable basis for believing this was a legitimate sale and so fell below the level of care expected of him under the CRM Code.

*Did Monzo meet the standards expected of a firm under the CRM Code?*

Even though I don't think Mr A had a reasonable basis for belief when making the payment, he may still be entitled to a refund of 50% of the money he lost if Monzo didn't meet the standards it has agreed to adhere to under the CRM Code.

The CRM code says that, where firms identify APP scam risks, they should provide Effective Warnings to their customers. It sets out that an Effective Warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And it says that, as a minimum, an Effective Warning should be understandable, clear, impactful, timely and specific.

Monzo argues that it provided an Effective Warning in the individual circumstances of this case. But as I've already explained above, it's 'low friction' warning was generic. It didn't bring to life what the type of scam Mr A was falling victim to looks like or highlight the common features of this type of scam.

Mr A is not an expert in scams and doesn't have the same level of knowledge or experience of this type of vehicle purchase scam as the bank does. If Monzo had given an Effective Warning as I think it ought to have done, including giving advice on how Mr A could have

protected himself from this type of scam, and prominently explaining the potential consequences of making an irrevocable payment, then I think this would've been important contextual information that would have had a material impact and affected his decision to go ahead and send the money. I've not seen any evidence that persuades me it is more likely than not that Mr A would have continued with the purchase regardless.

In addition to this, Mr A was making a payment that was out of character and unusual for him, so I think Monzo should have intervened to question the payment he was making and that action would have, on balance, prevented the scam. The effect of this finding is limited as it does not change the position that a fair outcome would be for both parties to share responsibility for the loss (caused by the second payment) as I am mindful that Mr A didn't take enough care with the purchase, but it does mean that Monzo should pay interest on the partial refund from the date of loss rather than the date it declined the claim under the CRM Code.

### *Recovery of funds*

Monzo did try to recover the money Mr A had sent. Ultimately this wasn't successful. But that outcome is not surprising given that fraudsters tend to move the funds on very quickly. It had already been four days since Mr A had sent the money before he notified Monzo about being scammed. As the fraudster was in touch with Mr A at the time he was making the payments, it seems more likely than not that they were able to utilise the funds as soon as they were sent.

### *Overall*

I know that this is going to be disappointing news for Mr A, especially as the investigator had previously recommended that Monzo ought to be responsible for refunding all the money lost. But having carefully considered everything, I've reached the conclusion that Mr A didn't meet his requisite level of care under the CRM Code and that, specifically in relation to the second transaction, Monzo didn't meet its standards as a firm as it failed to provide Mr A with an Effective Warning. I'm persuaded that failure to do so is likely to have had a material effect on preventing the scam. I also think Monzo should have done more to protect Mr A. As a result, I think a 50% split of liability for the loss stemming from the second transaction is a fair and reasonable outcome.

### **Putting things right**

To put things right, Monzo Bank Ltd to:

- refund Mr A 50% of the £4,999 that he paid to the fraudster; and
- pay 8% simple interest per year, from the date he made that payment until the date of settlement (less any tax lawfully deductible).

### **My final decision**

For the reasons given, my final decision is that I uphold this complaint and require Monzo Bank Ltd to put things right for Mr A as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 1 April 2024.

Gagandeep Singh  
**Ombudsman**