

The complaint

Mr M complains Monzo Bank Ltd (Monzo) won't refund the funds he lost as a result of a scam.

What happened

I issued my provisional decision on this complaint on 8 March 2024. I wanted to give both sides a chance to provide any further evidence and arguments before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

What happened

Mr M was looking on a comparison site for an unsecured personal loan to buy equipment for his business. He says he received a phone call from a company (that I'll call L) who agreed to grant him a 12-month loan of £3,550 at 9.2% interest, with a monthly repayment of £320. Unbeknown to Mr M at the time, he was speaking to a fraudster.

As part of the loan agreement, Mr M was told as he had 'poor credit rating', he had to show his affordability towards L by paying the first month's instalment upfront to an 'officer'. Mr M says he borrowed £320 from a family member which credited his Monzo account on 27 July 2023. He then transferred this via mobile banking to a third-party payee the same day. He then provided the fraudster with his identification documents after he'd paid.

Once Mr M had paid, L told him he needed to take out payment protection insurance (PPI) in order to receive the loan funds. Mr M sought out income protection insurance independently, and during his discussions with an insurance broker he was told PPI was no longer an available product. L told Mr M that the insurance he'd taken wasn't valid for the loan and it could offer him the correct policy with a company discount of £210. On 28 July 2023, a payment of £210 was made into Mr M's account from a third party he didn't know, but he assumed this was from L. He was told he'd need to pay the fee of £285 via a money remittance company to a different business. Mr M felt uncomfortable with this and grew concerned that he'd been scammed. However he did make a second payment of £210 to a second payee (to an account held in a personal name) as he was told to send this to another transaction officer.

He asked L to cancel his loan and asked for a refund of his £320. He first contacted Monzo via the app and completed a fraud report on 28 July 2023 at 10:30. In the meantime, L said it would return this to Mr M in 2-4 business days, but it never did. When Mr M was no longer able to contact L, it called Monzo again by phone on 4 August 2023.

Monzo contacted the bank Mr M sent the funds to, however it responded initially to say no funds remained. It later confirmed funds may remain and it needed more time. Monzo chased a response, and I understand since then it's not had a response from the receiving bank. However, I have received evidence from the bank Mr M sent his funds to, that no funds remained at the point it was reported, and it also didn't accept any liability for Mr M's loss.

Monzo considered Mr M's claim under the Contingent Reimbursement Model (CRM) Code, which it has agreed to abide by the principles of. The CRM Code sets out Monzo ought to refund customers who are the victim of a scam (like Mr M) in all but a limited number of circumstances. Monzo said Mr M wouldn't be eligible for a refund because he didn't take enough steps to check who he was paying and what the payment was for. In essence, he didn't have a reasonable basis for believing that the payment was for genuine goods or services, and/or the person or business with whom he transacted was legitimate.

Mr M complained to Monzo about its decision to decline reimbursement. He said he'd been impacted financially and mentally by the loss, and he thinks Monzo ought to refund him. He also complained about the time it took Monzo to give him an outcome to his claim.

Monzo, in its response to Mr M's complaint, maintained its position that it would not be liable for his loss under the CRM Code. But it paid £30 compensation for the time it took to answer Mr M's claim.

Unhappy with this outcome, Mr M referred his complaint to our service to be investigated. Our Investigator upheld Mr M's complaint because they thought Monzo hadn't fairly established that Mr M didn't have a reasonable basis for belief under the CRM Code. They recommended Monzo refund Mr M in full and pay 8% interest per year on the refund, from the date Monzo declined Mr M's refund under the CRM Code, to the date of reimbursement.

I note our Investigator asked Monzo for their evidence, but they failed to provide this in a timely manner, so they proceeded to assess the complaint with the evidence available at the time – largely from Mr M. Since the view was issued, Monzo provided its evidence, but our Investigator was not compelled to change their original outcome. They noted that Monzo supplied evidence of a Confirmation of Payee (CoP) outcome message which said the receiving bank could not check the payee as it didn't support CoP. They didn't think Mr M acted unreasonably in proceeding, despite this message, as it wasn't a case where Mr M had been advised the account details entered were incorrect.

As no agreement could be reached, this case was passed to me to be decided.

What I've provisionally 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 doing so, 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.

Mr M acknowledges he carried out the transactions in dispute, albeit he was tricked into doing so. Under the relevant regulations, namely the Payment Services Regulations 2017 (PSR 2017), he is responsible for transactions he has authorised.

However, as I've already set out Monzo has agreed to abide by the principles of the CRM Code. The starting position under the CRM Code is that Monzo ought to refund Mr M, unless it can establish an exception to reimbursement applies. Such exceptions to reimbursement include (as far as is relevant to this complaint) that Mr M:

- 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.*

In this case, I think that Monzo has fairly established that Mr M lacked a reasonable basis for believing that he was making the payments towards a legitimate loan company for a genuine short-term loan. I know this might be disappointing for Mr M, so I'll explain why I've provisionally reached this decision.

Mr M told our Investigator that he didn't opt to take a loan with a high street lender or well-known bank, because he was getting refused due to his credit score. It's even written in the agreement between Mr M and L that 'due to (his) poor credit score' he had to pay the first month's payment up front. So I do think it ought to have been a surprise to Mr M, that L was willing to lend to him, at a relatively low rate of 9.2% per year. Given Mr M's self-admitted poor credit rating, it seems likely this would have somewhat limited his option in lenders quite significantly. That's not to say that there wouldn't be alternative lenders that might choose to lend the funds to Mr M – however, such lenders would likely charge a very high interest rate, far exceeding the rate L was offering. And given Mr M was actively searching for loans on a comparison site, I think he'd likely have some awareness of this. So I do consider the arrangement to be somewhat too good to be true. Given he'd been offered a loan, at a somewhat reasonable rate, having already been unsuccessful in his attempts to obtain loans from major high street lenders and loan companies, I think this ought to have caused him to question whether the payment was for a genuine loan.

I've also considered the correspondence between Mr M and L. Firstly, I don't find the emails to be particularly persuasive in appearance. They contain multiple fonts, text sizes, and font colours in one email. They appear disjointed and some emails were poorly written. Secondly, the email domain used for L is not one which I'd expect to be used by a professional business and is more likely to be used for a personal email account.

Mr M was also asked to pay one month's payment up front, to a personal third-party payee. He believed he was paying an 'officer' and was told this during a phone call. He says he was also told he'd be paying a personal account, although Monzo's evidence seems to show that Mr M queried whether the account was a business one. The receiving bank has confirmed Mr M paid a personal account, and it's likely this is what the CoP revealed to him at the time.

Whilst I appreciate Mr M says he had no experience of taking out loans, I do think he ought to have thought twice about why he'd be paying a personal named payee for a loan, and why he'd need to part with funds in order to receive credit. And when he made this payment, Monzo's evidence tells me he was presented with a 'no match' CoP result at 10:47:51. This presented Mr M with a message which warned him that the details he'd entered didn't match the name on the account he was paying. It said:

*"Details don't match account
The details you entered don't match the account you're sending money to.
Please double-check who you're sending money to and cancel this payment if you think someone might be trying to scam you."*

And at 10:47:57 an online fraud warning triggered which said:

*"Could someone be trying to scam you?
If you're not sure, cancel this payment.
Once you make a payment, it's almost impossible for us to get the money back."*

Mr M says he thought the details were correct as he'd received them in an email from the fraudster. But I think this ought to have put Mr M on notice that there was a possibility that the payment was not going where he intended, and that the loan company he was dealing with was not legitimate, given the CoP result gave him reason to question the information they had given him was true.

I can see on Mr M's Monzo account statements that he has transacted with a credit card provider in the past, so I don't consider him to be entirely unfamiliar with engaging with a lender of sorts. And I don't think this process with L mimicked that which you might expect to see from a legitimate lender. Not least because he was making an upfront payment, to a third-party personal account, but he has also confirmed he wasn't asked for any personal identification documents until after he'd made the payment to receive the loan. It's common practice for financial providers to ask for some form of identification or take some steps to verify the customer when opening a new financial account (of any type), which I think Mr M likely would have known from his prior dealings with financial providers such as Monzo, or his credit card provider for example.

Overall, I think there was enough going on to have prompted a more cautious approach from Mr M, and further enquiries into L's legitimacy should have been made. At this point, I think he ought to have taken further steps to ensure that what he was doing was legitimate. For example, Mr M says he reviewed L's website, but had he taken a closer look at this, it showed that the details he'd been contacted on by L, were not the same details listed on their website. Both the phone number and email address were entirely different to the ones used by the fraudster. Given he'd been called by L, he hadn't contacted them, I think he should have done more to ensure that the call he'd received was genuine. The phone number L called from, has been reviewed quite poorly online with information publicly available to suggest it's a number being used by scammers. And this information was easily obtainable from an internet search of the phone number, which I don't think is an unreasonable step to take, given L had phoned him first and given this didn't match any of the listed contact details on L's website.

Similarly, Mr M says he checked L's record on Companies House before paying. However, a closer look at the record would have revealed that the 'managing director' that signed Mr M's loan agreement, had resigned from the company over a month before the scam. Given the red flags I've mentioned, I do think Mr M ought to have looked more closely into the Companies House record when he was checking it at the time.

Furthermore, there was also a cloned firm warning for L on the Financial Conduct Authority's (FCA) website since September 2016. Mr M has told our Investigator that he looked up L on the FCA website, and he told Monzo in a phone call that he thought L was a reputable company because he 'saw it on the FCA'. So this tells me he had some awareness of the FCA and its website. But, even if Mr M wasn't aware of cloned firm scams specifically, or how to use the FCA register to check for cloned firm warnings, simply by searching L's name in the search bar of the FCA website presents the cloned firm warning for L immediately in the search results. Mr M told our Investigator that he reached out to the FCA after he grew concerned, and they told him that L had been cloned. Had Mr M taken this step prior to making the payment, which I think he ought to have done given the red flags I've mentioned, I'm persuaded the scam would have come to light.

So, had Mr M conducted further checks into L, which I think he ought to have done given the inconsistencies I've mentioned, he would have found further reason to doubt what L was telling him and uncovered that he was being scammed.

Overall I do agree Monzo has fairly established that Mr M didn't have a reasonable basis for belief and so he can be held at least partially liable for his loss, in accordance with the CRM Code.

Did Monzo meet the standards for firms under the CRM Code?

The CRM Code also puts obligations on firms and one such (potentially relevant) obligation is to provide Effective Warnings where it identifies an APP scam risk in a payment journey.

However, considering the nature and value of the payment Mr M made, I'm satisfied no such APP scam risk would've been apparent to Monzo at the time. I say this as he regularly made payments out of his account for similar values. So I'm not persuaded it was under any requirement to provide Mr M with an Effective Warning when he made this payment.

Recovery of funds

Now I turn to Monzo's requirement in respect of recovering the funds Mr M lost to a scam. I'd have expected Monzo to contact the receiving bank immediately (or within an hour) in line with the Best Practice Standards for recovery of funds, which is a requirement under SF1(6) of the CRM Code.

Monzo's evidence show a note left confirming it contacted the receiving bank on 10 August 2023, by 15:43. However, it hasn't supplied clear evidence of the date and time the initial contact was made with the receiving bank. But the receiving bank tells me they first received notification from Monzo at 01:30 on 29 July 2023. As Mr M first reported the scam to Monzo at 10:30 on 28 July 2023, I'm satisfied Monzo didn't act quickly enough to recover Mr M's funds.

However, the bank Mr M sent his funds to has provided evidence which shows the fraudster debited Mr M's funds from the receiving account the same day Mr M had made the payment on 27 July 2023. So although there were delays to Monzo having contacted the receiving bank to notify it of Mr M's claim, I'm satisfied this delay had no impact on the amount that was recoverable, as it had been debited prior to Mr M first reporting the scam to Monzo.

Whilst this will be disappointing for Mr M, Monzo has fairly established under the CRM Code that an exception to reimbursement applies and it has no liability for his loss.

Customer service

I can understand why Mr M is unhappy with the service he received from Monzo when he reported his claim. He notified Monzo on 28 July 2023 and he called them on 4 August 2023 to report the scam. During the initial call he had, there were no time frames confirmed for the outcome. However, Mr M confirmed in his messages with Monzo that he was expecting an answer in 15 days or up to 35 days. He contacted Monzo on 15 August, 21 August, and 9 September 2023 for updates on his case. At no point was he given a clear timeframe during which he might expect an answer from Monzo. He eventually received an outcome on 21 September 2023, declining his claim. As I think Monzo did fairly decline reimbursement under the CRM Code, this delay has not impacted any refund he was due. Although I appreciate why this caused Mr M further frustration. However, Monzo has paid £30 compensation to reflect its error and I think this is fair in this case.

My provisional decision

For the reasons I've explained above, I do not intend to uphold this complaint.

Monzo accepted my provisional decision and had nothing further to add. Mr M did not respond.

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.

As neither party have provided any new comments or evidence for me to consider, my final decision is unchanged from the provisional findings I've set out above.

My final decision

For the reasons I've explained above, I do uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 April 2024.

Meghan Gilligan
Ombudsman