

## **Complaint**

D, a limited company, complains that Monzo Bank Ltd didn't refund it after it fell victim to a scam. D is represented by its only director, Mr K. For simplicity's sake, I've generally referred to Mr K in the text of this decision.

## **Background**

The background to this case is well known to the parties, so I only intend to set out a summary of the key events here.

In July 2023, Mr K fell victim to a scam. He found a used excavator for sale online that he intended to use in his business. It was being offered for sale via a well-known online marketplace. He contacted the seller to negotiate the price. The seller told him the vehicle would cost him £4,000 and that, for a supplementary payment of £170, it could be delivered to his home. Mr K was happy with that price and agreed to go ahead.

He received an email from what he believed to be the online marketplace. It included an invoice for the sale of the excavator and instructions on how to make the payment. He followed those instructions, but then received no further communications from the seller. A few days later, he noticed the seller had blocked him. He realised that he'd fallen victim to a scam and so he notified Monzo. It looked into things, but it didn't agree to refund him. Mr K wasn't happy with that and so he referred the complaint to this service. It was looked at by an Investigator who upheld it in part.

Mr K accepted the Investigator's recommendation, but Monzo didn't. As a result, the complaint has been passed to me to consider and come to a final decision.

## **Findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

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 2017 and the terms and conditions of the customer's account.

However, that isn't the end of the story. Monzo has agreed to follow the Lending Standards Board's Contingent Reimbursement Model Code ("the CRM code"). This code requires firms to reimburse customers who have been the victim of authorised push payment ("APP") scams, like this one, in all but a limited number of circumstances.

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

- The customer ignored an effective warning in relation to the payment being made; or
- 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.<sup>1</sup>

Monzo didn't display a warning during the payment process, so the first exception can't be said to apply. In respect of the second, the Investigator concluded that, although Mr K sincerely believed this to be a genuine transaction, that belief wasn't reasonable in all the circumstances. I'd agree with that conclusion.

It's significant that he agreed to buy the excavator without seeing it or having the opportunity to inspect it. Furthermore, the price that he was quoted was significantly lower than the typical market price. He should've expected to pay as much as 50% more than he did. The fact that it appeared to be so heavily discounted should've prompted him to only proceed with great caution.

However, I've also considered whether Monzo did everything it needed to do under the CRM Code. The Code says that, where there's an identifiable risk of an APP scam, firms should take reasonable steps to provide their customer with effective warnings. In this instance, Monzo didn't. It has argued that there wasn't a clear risk, but I'm not persuaded by that. I've looked over the statements for D's account and it doesn't show many large payments. The most significant payments were to other accounts in Mr K's name. I think a £4,000 payment to a new payee was out of keeping with the typical way the account had been operated. And, while I wouldn't expect Monzo to do anything further than provide Mr K with a system generated warning, I think providing such a warning would've been the proportionate response to the risk. It didn't do so and so I'm satisfied that it didn't do what was expected of it under the CRM Code.

For the sake of completeness, I've also looked at whether Monzo did everything I'd expect it to do in respect of recovery of funds. I can see that it did contact the receiving bank (i.e., the bank that operated the fraudster's account) to request that D's funds be returned. Unfortunately, they were moved out of the receiving account before Mr K notified Monzo that a scam had taken place. As a result, recovery of funds wasn't possible.

### **Final decision**

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

If D accepts my final decision, Monzo Bank Ltd should refund 50% of the money it lost to the scam. It should also add 8% simple interest to that sum calculated to run from the date it declined D's claim until the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 15 August 2024.

James Kimmitt  
**Ombudsman**

---

<sup>1</sup> There are further exceptions within the CRM code, but they don't apply here.