

The complaint

Mr A complains that Monzo Bank Ltd (“Monzo”) won’t refund him a payment made from his current account as the result of a scam.

What happened

In April 2023, Mr A was involved in a scam. He was persuaded to send £3,500 from his Monzo account to someone who purported to be a housing agent but who we now know to be a scammer.

Mr A was told by the scammer that they would secure him a rental property with a lower than usual rent. However, the property did not materialise and the scammer eventually stopped communicating with Mr A. At this point, Mr A realised he’d been scammed.

Mr A then contacted Monzo for help. Monzo looked into what Mr A said but it didn’t offer him a refund of the funds he had lost. It said it had contacted the scammers bank, but it hadn’t been able to retrieve any of Mr A’s funds. Monzo went on to say that it would not look to assume liability for Mr A’s loss now.

Unhappy with Monzo’s response, Mr A brought his complaint to our service. An investigator looked into things and recommended that the complaint be partially upheld. He said he didn’t think Mr A had a reasonable basis for believing that the service being offered was legitimate prior to making the payment. However, he also thought the payment Mr A had made was unusual when compared with Mr A’s usual account activity and so he thought Monzo should’ve presented Mr A with an effective scam warning before the payment was made. Because Monzo hadn’t presented Mr A with a scam warning when it should’ve done, the investigator thought Monzo should be held liable for 50% of Mr A’s loss.

Mr A agreed with the investigator’s opinion but Monzo did not. It didn’t think the payment Mr A had made was unusual when compared with his usual account activity and so it didn’t think it needed to provide him with a scam warning at the time. It also said that given the nature of the scam, even if it had provided a generic scam warning, this wouldn’t have made a difference to the success of the scam.

As an agreement could not be reached, the case was passed to me for a final 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, I agree with the findings put forward by our investigator and I am *partially* upholding this complaint. I’ll explain why in more detail below.

The CRM Code

Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (the CRM code) 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.

A customer who has fallen victim to a scam should, under the CRM Code, be refunded in full in most circumstances. But the Code does set out exceptions to reimbursement which a business can choose to rely on, if it can evidence that they apply.

Monzo has said that such an exception applies in Mr A's case. Monzo says that:

- Mr A lacked a reasonable basis for believing he was dealing with a legitimate person for legitimate purposes.

It is then for me to decide whether this exception to reimbursement can be fairly relied on.

It is not in dispute that Mr A has been the victim of a scam. I'm satisfied the proposition offered by the scammer was a fraudulent scheme. But I then need to consider the merits of Mr A's individual case, taking into account his specific circumstances.

Did Mr A have a reasonable basis for believing he was dealing with a legitimate person for legitimate purposes?

Taking into account all of the circumstances of this case, including the personal circumstances of Mr A and the complexity of the scam, I think the concerns Monzo has raised about the legitimacy of the transaction Mr A made are enough to support its position that he didn't have a reasonable basis for believing he was dealing with a legitimate person for legitimate purposes.

Whilst I understand Mr A had been recommended the services of the scammer by his family and certain social media influencers, I don't think he had a reasonable basis for believing the scammer was the person they held themselves out to be or that the property services on offer here were genuine. In reaching this conclusion I have taken into account the following:

- All of the communication between the scammer and Mr A took place via social media and messaging service - which is generally not a method used to arrange and agree legitimate rental agreements. The language used by the scammer wasn't professional and wasn't what I'd expect of a genuine property agent either. I therefore think that the nature of the messages, in combination with the other factors, ought reasonably to have led Mr A to have concerns.
- Mr A has said the payment in question was to cover his first two months' rent but I haven't seen any evidence that supports a property had been found on behalf of Mr A. And it doesn't appear that Mr A had seen pictures of a property or viewed a property in person either. I also haven't seen any evidence that Mr A signed a contract to enter into a tenancy agreement. And so, I'm not persuaded that Mr A was shown anything that could've persuaded him that he was entering into a genuine agreement or that an appropriate property had been found on his behalf.
- The services being offered by the scammer did not sound genuine and it's not clear as to how the scammer would be able to obtain properties for lower than market value or how this could be guaranteed. And so, without anything to substantiate what Mr A had been told, the services being offered here were unrealistic and Mr A ought

reasonably to have had significant concern about the legitimacy of the opportunity that was presented to him – especially when he was asked for such a substantial sum upfront without reference to a particular property. Agency services, such as the one being offered here, are usually free until a property is found and a contract secured.

- Mr A has said he did carry out some checks on the scammer, including finding their profile on social media websites and checking that the company was registered on Companies House. However, the listing Mr A has referred to on Companies House makes no mention of property services. And so I'm satisfied that this should also have been a red flag for Mr A rather than providing him with reassurance as he has suggested.
- Finally, if Mr A was dealing with a genuine property agent, I'd have expected to see the funds he paid for the property to go to a genuine business account and not to a personal account in the name of someone other than the person he was supposedly speaking with - as they did here.

Overall, I'm not persuaded that Mr A completed enough research before deciding to go ahead and make this payment - particularly given the significant red flags I've set out above.

Should Monzo have provided Mr A with an effective warning?

The CRM Code also sets out standards for firms – that is, what firms are expected to do to protect customers from the risk of fraud and scams. One of those requirements is that, where the firm has (or should have) identified that its customer is at risk from a scam, it should provide that customer with an “effective warning”, within the meaning of the CRM Code.

Mr A says Monzo didn't provide him with an effective scam warning before he made the payment now in question here.

Monzo says it didn't need to provide Mr A with an effective scam warning as the payment wasn't considered suspicious when compared with Mr A's usual account activity. To support this, Monzo has provided this service with evidence of similar transactions Mr A made between 2020 and 2022.

Having reviewed Mr A's bank statements for the period before the scam I can see that the payment now in question here was higher than the payments Mr A usually made from his account. It is also higher than any of the payments put forward by Monzo as being similar payments. And it was being made to a new payee. And so, overall, I think this ought reasonably to have caused Monzo to have some concerns that Mr A might've been at risk of falling victim to an APP scam. I don't agree with Monzo that payments of this amount were usual for Mr A. The fact that Monzo has had to go back as far as 2020 to find what it says are similar transactions, suggests that this payment is, in fact, unusual for Mr A's account. And so, I'm satisfied that Monzo should've provided Mr A with an effective scam warning at the time this payment was being made.

Monzo has said, that given that the scam Mr A was falling victim to was unusual, even if it had identified a scam risk, it still wouldn't have been able to provide a warning that would be considered 'effective' under the CRM code or have prevented the scam from taking place.

Whilst I acknowledge the arguments put forward by Monzo, the fact remains that under the CRM Code, Monzo has an obligation to provide its customers with an 'effective warning' where it should've identified an APP scam risk in the payment journey. And, in this case, as Monzo provided no warning at all, I cannot say that it has met its obligation under the Code.

And as Monzo hasn't submitted what warning it would've presented to Mr A, it is not possible for me to say that any warning provided would've been unlikely to prevent the scam Mr A was falling victim to. Had Mr A been warned about making payments to an unknown individual or been told that he may lose his money, he may have thought twice. But Monzo provided no warning at all. And so, I'm not satisfied Monzo has been able to establish that Mr A should not be reimbursed on the basis that he ignored an effective warning.

Vulnerability

The CRM Code also says that a customer who was vulnerable when they fell victim to an APP should receive a full refund of the amount lost, regardless of whether the firm knew about the customer's vulnerability before the scam took place.

The CRM Code states that:

"A Customer is vulnerable to APP scams if it would not be reasonable to expect that Customer to have protected themselves, at the time of becoming victim of an APP scam, against that particular APP scam, to the extent of the impact they suffered."

Mr A has said he was looking to move into a larger property that would be more suitable for his children's needs. I've thought about what he's said in the context of the CRM Code, but I don't think this means that Mr A was unable to protect himself from this particular type of APP scam. The evidence provided to me suggests Mr A was enticed into the agreement because the house he was supposedly being offered was larger, cheaper and closer to his children's school. But he was under no pressure to move out of his current property which was being paid for by housing benefit paid directly to his landlord. And so, I'm not persuaded Mr A's personal circumstances at the time should've affected his decision-making capacity or that they made him vulnerable under the CRM Code.

Recovery of funds

I've also thought about whether Monzo could've done more to help Mr A once it was notified of the scam but I don't think it could. I can see that Monzo contacted the receiving bank where Mr A's funds were paid to but were told no funds remained in the account to be returned to Mr A. Through no fault of his own, Mr A reported that he had been the victim of a scam some months after the payment to the scammer had been made. So, I think it's reasonable to assume, given the timeframes involved and given what we know about the scammer, that the funds were most likely utilised prior to Mr A reporting the scam to Monzo.

Summary

In summary, as I'm not persuaded that Monzo met its requisite obligations under the CRM Code or that Mr A had a reasonable basis for believing what he was being told, I'm satisfied that a fair and reasonable outcome, in all the circumstances, would be for Monzo to refund Mr A 50% of his overall loss plus 8% simple interest and Mr A should bear responsibility for the rest.

Putting things right

Monzo Bank Ltd should now refund Mr A:

- 50% of his total overall loss
- Pay interest on that amount at a rate of 8% simple from the date the payment left the

account to the date of settlement.

My final decision

For the reasons given above, I partially uphold this complaint and direct Monzo Bank Ltd to pay the settlement I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 July 2024.

Emly Hanley Hayes
Ombudsman