

## The complaint

Miss H complains that Monzo Bank Ltd (“Monzo”) won’t refund the money she lost after she fell victim to an Authorised Push Payment (“APP”) scam.

## What happened

The background to this complaint is well known to both parties, so I won’t repeat it all in detail here. But in summary, I understand it to be as follows.

Due to a change with her partner’s employment, Miss H was looking to purchase a vehicle. She found one that interested her, through a well-known online search engine. Miss H contacted the seller, a car dealership, and agreed to buy the vehicle.

Miss H has said prior to agreeing this she checked the dealership and could see it was registered with Companies House. Alongside this, Miss H has said she looked at the company’s website and could see it was frequently active and she thought the vehicle was being sold for a believable price. Miss H added that she did have some concerns about the company, when it didn’t agree to accept a cash payment on delivery – but she was persuaded by email communication that followed with the seller.

Believing everything to be genuine, Miss H went ahead and made the following payments, totalling £3,450, to the account details provided by the seller;

1 June 2023	£50
1 June 2023	£3,400

But unfortunately the vehicle didn’t arrive on the agreed delivery date and when communication with the seller ceased, Miss H realised she’d been scammed and had sent her money to an account that the fraudsters controlled.

Miss H raised the matter with Monzo. Monzo is not a signatory to the Lending Standards Board’s Contingent Reimbursement Model (the CRM Code) but has agreed to adhere to the provisions of it. This means Monzo has made a commitment to reimburse customers who are victims of authorised push payment scams except in limited circumstances. Monzo investigated Miss H’s fraud claim but concluded it had no responsibility to refund her loss. In summary this was because it didn’t consider she had taken enough steps to check what she was paying for.

Monzo also said that it had tried to recover Miss H’s money from the beneficiary bank (the bank to which the money was sent), but unfortunately no funds remained.

Unhappy with Monzo’s response, Miss H brought her complaint to this service and one of our Investigator’s looked into things. Our Investigator thought the complaint should be upheld in part. In summary, she didn’t think Monzo had met its standards as a firm under the CRM Code as it hadn’t provided an ‘Effective Warning’ at the time the second payment was made. So our Investigator thought Monzo was, at least in part, responsible for the loss Miss H had suffered.

But our Investigator also considered that Miss H should share some responsibility for her loss. She said this because she didn't think Miss H had a reasonable basis for believing the vehicle she thought she was purchasing was genuine. She said this because the price of the vehicle was too good to be true. Alongside this our Investigator said Miss H seemed to have her own doubts and that overall it was more likely than not it would have been evident there was a considerable degree of risk associated with the payment.

So our Investigator thought both parties should share some responsibility, and Monzo should refund £1,700 (being 50% of the second payment Miss H had made), along with interest.

Through her representative's, Miss H accepted our Investigator's view, but Monzo didn't accept it. In summary it didn't think it was unusual for Miss H to make a payment of this value to a new payee. It added that it felt the warnings it did give were more than reasonable and appropriate considering the nature of the payment. Alongside this, it referred to the approach outlined by the Supreme Court in the case of *Philipp v Barclays Bank UK PLC* – which it said was relevant here, as it said blocking every higher than normal payment is not feasible.

As agreement couldn't be reached the complaint has been 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.

As already set out, Monzo has agreed to adhere to the provisions of the CRM Code. So, I've considered whether Miss H should be reimbursed in full or in part by Monzo under its provisions.

The CRM Code allows Monzo to decline reimbursement if it can demonstrate (as far as is relevant to this complaint) that Miss H;

- Ignored an 'Effective Warning'; and/or
- Made the payment without a reasonable basis for believing that the sale of goods was legitimate

There are further exceptions outlined in the CRM Code that do not apply to this case.

#### *Did Miss H have a reasonable basis for belief*

Taking into account all of the circumstances of this case I think that Monzo can rely on the second exception to reimbursement mentioned above. I don't think she had a reasonable basis for believing that the person she transacted with was legitimate or that the payments were for a genuine service.

This is because the price of the vehicle here, wasn't just a little lower than Miss H might have found elsewhere, but based on trade guides it was seemingly less than half of the market value. I've not seen that Miss H sought any explanation to plausibly justify such a significant discount.

Overall, I question why a seller would so heavily discount a vehicle that was being advertised as having no faults and what appeared to be relatively low mileage for a vehicle

of its age. Miss H also asked to pay for the vehicle on delivery. I think it ought to have caused Miss H further concern when this request was declined.

I'm mindful that, taking any of the individual factors above in isolation, they may not have been enough to have prevented Miss H from proceeding. But when considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Miss H ought reasonably to have taken further steps to protect herself. I think it is reasonable to suggest Miss H needed to approach the purchase with considerable caution to ensure that the vehicle actually existed and that she was dealing with a legitimate seller. In not carrying out sufficient checks, I don't find she had a reasonable basis for believing she was making a payment for a legitimate purpose.

So, I think Monzo can fairly rely on one of the exceptions to reimbursement – that Miss H made the payment without a reasonable basis for believing that the seller was legitimate. This leads me to conclude that Miss H is, at least in part, liable for her loss.

#### *Should Monzo have provided effective warnings?*

Monzo, under the CRM Code and as a matter of good practice should be on the lookout for out of character and unusual transactions which indicate that its customer might be at risk of financial harm from fraud.

In the circumstances of this case I don't consider there was a requirement for Monzo to provide a warning at the point Miss H made the first payment for £50. I say that as, while the payment was going to a new payee, I don't think it would have appeared as so unusual or out of character that, when compared to her typical account activity, I could reasonably have expected Monzo to have been concerned of a potential scam risk.

But at the point Miss H was making her second payment, for £3,400, I'm satisfied there was enough going on that, when considering the scope of the CRM code, Monzo ought reasonably to have provided Miss H with an effective warning, ahead of allowing the payment to be progressed.

I say that as the payment represented a high value payment, when compared to Miss H's typical account activity, and was the second payment to a new payee within a relatively short time period. So I think, at this point, Monzo should reasonably have been alert to the potential risk of a scam and as such, ought to have provided Miss H with an effective warning.

In order for a warning to be 'Effective' under the CRM Code. It must, as a minimum be: clear, specific, understandable, timely and impactful. I accept that Monzo needs to strike a balance between its warnings being impactful and specific. But I don't think the warnings Monzo presented Miss H with would be considered as 'effective' under the CRM Code. I say that because;

- The warnings were not specific to the type of scam Miss H was falling victim to and speak generically about hallmarks, which could be relevant to a wide range of scams.
- The warnings don't refer to transfers arranged online being at higher risk of fraud or explain why. Nor do they talk about the typical hallmarks of vehicle scams.
- Nor do the warnings explain there may be alternative methods of payment that may offer more protection, such as that bank transfers aren't protected in the same way as card payments.

In my view, the warnings lack overall impact – they fail to bring alive some of the key features of purchase scams or highlight the key risks. So, I don't think they can be considered to be Effective Warnings. I therefore don't find the warnings impactful, which means that I don't think Monzo met its standards as a firm and liability for the loss should be shared between Miss H and Monzo for the second payment.

I'm mindful that in its submissions Monzo has raised the Supreme Court case of *Philipp v Barclays Bank UK PLC* and has also argued that it can't be expected to block every out of character payment. But as I've explained, Monzo has agreed to abide by the principles of the CRM code, which sets out standards for firms and situations where firms will reimburse consumers. For the reasons already explained above I've found that, when considering the principles of the CRM Code, Monzo are, at least in part, liable for Miss H's loss as the warnings it provided were not effective. So, I'm not persuaded its submissions on those points are relevant here.

Overall and on balance, for reasons explained, I don't think Miss H had a reasonable basis for belief when making the payments. But I don't think Monzo met its standards as a Firm when Miss H made the second payment (for £3,400) and so liability for the loss of this payment should be shared.

Finally, I've also considered whether Monzo did all it could to try and recover the money Miss H lost, once she had reported the scam to it. Monzo did contact the beneficiary bank when the matter was raised with it, but unfortunately it wasn't able to recover any of the money lost. So I think Monzo has done what could reasonably have been expected of it to try to recover the money.

### **Putting things right**

For the reasons I've explained, I uphold this complaint about Monzo Bank Ltd in part and instruct it to pay Miss H:

- £1,700 (being 50% of the money lost when Miss H made the second payment of £3,400).
- Pay interest on that amount at 8% simple per annum from the date it declined Miss H's claim under the CRM Code to the date of settlement.

### **My final decision**

My final decision is that I uphold this complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 11 July 2024.

Stephen Wise  
**Ombudsman**