

## The complaint

Miss C has complained that Monzo Bank Ltd are holding her liable for money she lost after falling victim to a scam.

## What happened

Miss C received a text about a parcel delivery. As she was waiting for a parcel, she clicked the link and entered her details.

Following this, in September 2023, Miss C was called by scammers posing as Monzo. They persuaded Miss C that they were real as they knew her details and took her through a security process. They told Miss C that her account was unsafe and someone had taken out a loan and overdraft in her name.

The scammers told Miss C that if she went through the process for taking out a new loan, it would look like she was applying for a loan but would actually cancel out the fraudulent one. Miss C applied for a £7,000 loan from Monzo, and received the funds into her Monzo account. The scammers acted surprised that the funds had arrived, and persuaded Miss C to pay the loan funds and her overdraft balance to a merchant via card payments in order to repay and cancel the debts. She paid £8,835 across several card payments.

The scammers told Miss C to delete her Monzo app, wait, then reinstall it and the transactions would disappear. Miss C did so but the transactions were still there. She realised she'd been scammed and reported the matter to Monzo. Monzo didn't think it was liable for Miss C's loss.

Our Investigator looked into things independently and partially upheld the complaint. Monzo didn't agree, so the complaint's been passed to me to decide.

I sent Miss C and Monzo a provisional decision on 3 December 2024, to explain why I thought the complaint should be mostly upheld. In that decision, I said:

*There's no dispute that Miss C authorised the payments involved, even if she didn't intend for the money to go to scammers. So under the Payment Services Regulations and the terms of her account, Miss C is liable for the loss in the first instance. But the matter doesn't end there.*

*Taking into account the law, regulator's rules and guidance, relevant codes of practice, and what I consider to have been good industry practice at the time, I consider that Monzo should have fairly and reasonably:*

- *Monitored accounts and payments to counter risks such as fraud and scams;*

- *Had systems in place to look out for particularly unusual transactions or other signs its customers were at risk of fraud;*
- *In some circumstances, taken further steps or made further checks before a payment went out, or even blocked it, to help protect customers – irrespective of the type of payment involved.*

*I find that Monzo should have intervened from the point of the first payment. That payment was notably large in and of itself, and was far larger than Miss C's usual activity. I've reviewed Miss C's account in the months leading up to the scam, and I can't see any comparable activity. This went to a new payee, which was a jewellery merchant, despite the fact that the loan which funded it was for home improvements. Monzo pointed out that the payment was authorised, and that people normally spend money after taking out loans. But as it well knows, there are prominent scams which involve both the use of loans and the use of authorised payments. Here, I think the payment stood out as being remarkable, so I think it should have prompted Monzo to intervene.*

*In reaching my decision that Monzo should have made further enquiries, I've taken into account the Supreme Court's decision in Philipp v Barclays Bank UK PLC [2023] UKSC 25.*

*In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks when making payments. In summary, among other things, it said:*

- *The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, the bank must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.*
- *The express terms of the current account contract may modify or alter that position. For example, in Philipp, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP Fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a duty to do so.*

*In this case, Monzo's terms and conditions gave it rights to block payments or cards where it suspects criminal activity on the account or where it is concerned about the customer being a victim of fraud, and to contact the customer about this.*

*So the starting position in law was that:*

- *Monzo was under an implied duty at law to make payments promptly.*
- *It had a contractual right not to make payments where it suspected fraud.*
- *It had a contractual right to delay payments to make enquiries where it suspected fraud.*
- *It could therefore refuse payments, or make enquiries, where it suspected fraud, even if it was not under a contractual duty to do either of those things.*

*While the account's terms did not oblige Monzo to do fraud checks, I do not consider that any of these things (including the implied basic duty to make payments promptly) precluded Monzo from making fraud checks before making a payment.*

*And while Monzo was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements, its duty to avoid causing foreseeable harm, and what I consider to have been good practice at the time, it should fairly and reasonably have been on the lookout for the possibility of fraud, and should have taken additional steps – or made additional checks – before processing payments in some circumstances, such as in the circumstances of this case.*

*So for the reasons I've explained, I find that Monzo should have intervened in this case.*

*Had Monzo intervened and asked reasonable questions, it seems most likely that it could have uncovered the scam and stopped any further loss. I've seen nothing to suggest Miss C would not have been honest about why she was spending this money – the scammer hadn't told her to lie if questioned, and her main reason for trusting the scammer was because she trusted her bank. The matter bore many hallmarks of a relatively prominent type of scam, so I think Monzo would have been able to quickly identify what was happening and prevent it.*

*As such, I currently find that Monzo bears some liability for the loss.*

*I've also thought carefully about Miss C's role in what happened. I understand that the scammers were convincing, not least as they already knew key details about Miss C and took her through a security process. But this was still a cold call from an unknown number, Miss C doesn't seem to have checked who she was talking to, and the scammers persuaded her to take out a loan and make purchases to an unrelated merchant based on reasons which were not reasonable and in a relatively short time. I'm afraid I don't think Miss C had a very reasonable basis to believe what she was being told. I think she ought to have had more concerns along the way about what she was being told and asked to do.*

*So I don't think I can fairly hold Monzo solely liable for Miss C's loss. I think Miss C should also bear some liability for that loss.*

*As such, I currently think that Monzo should refund 50% of the total loss, along with any related overdraft interest and fees that that loss caused. As some of the loss came from a Monzo loan, it's fair for Monzo to pay up to £3,500 (50% of the £7,000 loan) towards the loan's principal directly rather than paying it to Miss C.*

*I've also thought carefully about the loan involved. There doesn't seem to be any debate that Miss C applied for this loan. And while she did so under false pretences, I think she would've reasonably been aware that she was applying for a loan in her name which would need to be repaid. And I can't see that Monzo had good reason to think this loan was being applied for fraudulently – it was their genuine customer applying. So I don't think Monzo needs to write off the loan's principal. I think it can hold Miss C liable for the principal.*

*With that said, this loan was taken out as part of a scam. Miss C did not benefit from the funds. And of course, I'm sure Monzo would not want to be profiting from financial crime. So I find that Monzo should waive the loan's interest and fees, and only hold Miss C liable for the principal of the loan. It should reflect this on her credit file.*

*Lastly, Miss C said that Monzo lent the loan to her irresponsibly given her financial situation. But the solution for that would be the same – for the loan’s interest and fees to be waived and for her to only repay its principal.*

I said I’d consider anything else anyone wanted to give me – so long as I received it by 17 December 2024. Monzo accepted the provisional decision, and we didn’t receive a reply from Miss C.

### **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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case, I’ve come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

### **Putting things right**

I direct Monzo Bank Ltd to:

- Refund 50% of the £8,835 loss, which comes to £4,417.50.

If it wishes to, Monzo may use up to £3,500 of that refund to reduce the balance of the loan’s principal.

- Remove any overdraft interest or fees caused by the above loss.
- Waive the loan’s interest and fees.
- Adjust Miss C’s credit file entries for the loan and overdraft to remove the above interest and fees from the historic reported balance.

### **My final decision**

I uphold Miss C’s complaint in part, and direct Monzo Bank Ltd to put things right in the way I set out above.

If Miss C accepts the final decision, Monzo Bank Ltd must carry out the redress within 28 days of the date our service notifies it of the acceptance.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss C to accept or reject my decision before 15 January 2025.

Adam Charles  
**Ombudsman**