

The complaint

Miss M complains that Monzo Bank Ltd did not reimburse the funds she lost to a scam.

What happened

Miss M was looking for an apartment to rent overseas. She went onto a genuine property agent website and found an apartment she liked. She contacted the agent, who she searched the name of and found was a genuine estate agent in the country that the apartment was in. After some back and forth about pricing and the details of the stay, Miss M was sent a payment link on what appeared to be an Air BnB page. She paid £7,530 via her Monzo debit card for a six-month long term let. However, soon after this she could no longer contact the agents, and after speaking with both Air BnB and the property search website, she found the apartment offer was fake and she had been scammed.

Miss M raised a scam claim with Monzo, who issued a final response letter explaining as she did not take enough precautions to check who she was paying, they did not agree to reimburse her. However, they did pay her £50 in recognition of the delays in responding to her claim. Miss M disagreed with the outcome and referred the complaint to our service.

Our Investigator reviewed the complaint and felt Monzo should reasonably have flagged the payment as unusual, as it was a high value payment going to a known cryptocurrency provider. They felt that had Monzo tried to narrow down what the payment was for, Miss M would have said it was for a rental, which would have caused concern as she had actually purchased cryptocurrency. With this in mind, they recommended a full reimbursement of the loss as well as 8% simple interest and an additional £250 compensation.

Miss M accepted the findings, however Monzo did not. They said it was not unusual for customers to make one-off larger payments and it would have gone against the ruling of Philips vs Barclays to not place friction on genuine transactions customers make. They also highlighted Miss M had made a number of payments to cryptocurrency providers previously, so she would have been aware she was sending the £7,530 to a cryptocurrency provider. And they highlighted Miss M had not viewed the property before making a large payment for it. Because of this, they did not think they should provide a full reimbursement.

As an informal agreement could not 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, 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.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And, as the Supreme Court has recently reiterated in *Philipp v Barclays Bank UK PLC*, banks generally have a contractual duty to make payments in compliance with the customer's instructions.

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

- 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 dated 25 April 2023 gave it rights (but not obligations) to:

- Refuse to make a payment if it suspects a customer is the victim of fraud.
- If payments are blocked, it explains that Monzo will contact the account holder using one of their usual channels – one of which I note is by phone.

So the starting position at 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, but it was not under a contractual duty to do either of those things.

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

And, whilst Monzo was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good practice at the time, it should fairly and reasonably have been on the look-out for the possibility of APP fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including Monzo, do.

The detailed reasoning for this has been set out in substantial detail in recent decisions to Monzo, so I don't intend to repeat it here. But in summary, overall, taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Monzo should fairly and reasonably: Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.

- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – as in practice all banks do.
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers including the use of cryptocurrency accounts) and the different risks these can present to consumers, when deciding whether to intervene.

Should Monzo have fairly and reasonably made further enquiries before it processed Miss M's payments?

I've reviewed Miss M's statements and compared the scam payment to her genuine account activity. Having done so, I can see the value of the payment was higher than her normal everyday transactions. While I appreciate Monzo's comments that it is not unusual for individuals to make one-off larger payments, I also have to consider that this was of a relatively high value and was going to a known cryptocurrency provider.

Monzo has also pointed out that Miss M made previous payments to other cryptocurrency providers. However, based on what they have said, it appears these were for lower values and in any event, there were no other cryptocurrency related payments for at least four months prior to the scam occurring. On balance, I do not think the existence of previous payments to cryptocurrency on the account negates the risk that a high value payment to a known cryptocurrency provider poses. And considering the value, I think the payment warranted an intervention from Monzo.

I think it would have been reasonable for Monzo to provide a tailored cryptocurrency warning in the circumstances. To ensure it was tailored I would have expected them to ask Miss M a series of questions to narrow down the purpose of the payment. As Miss M has said she was unaware she was purchasing cryptocurrency and instead thought she was paying for a rental property, I think the scam would have quickly unravelled. Any answers Miss M would have given about the purpose of the payment would have been at odds with the questions Monzo would have posed round cryptocurrency. With this in mind, I think Monzo has missed an opportunity to meaningfully reveal the scam in the circumstances.

I've gone on to consider whether or not Miss M should reasonably bear some responsibility for the losses as a result of any negligence in her actions and if it is therefore reasonable for me to make a reduction in the award based on this. In doing so, I've considered whether Miss M has acted as a reasonable person would to protect herself against the loss she suffered. The test is objective but needs to take account of the relevant circumstances.

Monzo has argued that there should be a reduction in the redress as Miss M would have been aware she was paying cryptocurrency for the rental, as she had made several payments to cryptocurrency merchants previously. They also felt the price of the rental was too good to be true and this should have been a warning to Miss M something was not right.

I've considered this carefully, and having done so I do not agree there should be a reduction in the redress in this particular case. Miss M has provided some evidence, though understandably she does not have screenshots of every stage of the renting process. She has said she initially found the apartment on a genuine website, and looking at the chats

between herself and who she thought was the agent, the advert was soon taken down. She was told this was because they had a lot of interest, but it is also possible it was because it had been removed as it was not genuine.

As Miss M found the apartment on a genuine website, and she was speaking with someone who had impersonated a genuine estate agent in the country she was moving to, I can understand why she was convinced this was a legitimate offer for an apartment. Monzo feels the price of the property was too good to be true, and I can see that when compared to the apartments available today it is cheaper than comparable apartments by around £400 per month. However, it is almost impossible to ascertain what the price range was in January 2024 when Miss M was looking for the apartment. And I also have to consider that she was moving to a new country, so I would not have expected her to have an understanding of the expected price range for apartments in the area. On balance, while the cost may have been on the lower end, I don't think this alone is enough to say Miss M did not act as a reasonable person would to protect herself.

I have seen some screenshots of the cloned Air BnB site and the limited images I have seen do look professional. Miss M has said that her booking history was available on the site, but I agree that this is unlikely. In any event, what I have seen does look like the genuine site and I can understand why Miss M would have been convinced by it. I've then seen that Miss M was given a link in an e-mail to make the payment for the property. I have not seen what this link then took her to, but Miss M says she had to enter her card details and provide a copy of her passport. I can see in the messages between herself and Monzo, when they ask her why she made a payment to cryptocurrency, she says they have misunderstood and that she did not pay by cryptocurrency.

We cannot know what the link Miss M clicked to make the payment took her to. On balance, I think it is unlikely it was clear she was authorising a payment to cryptocurrency and instead it's more likely there was a front that took her card details and her information that allowed the scammer to make a cryptocurrency payment instead. If anything, I think Miss M's previous experience with cryptocurrency further supports this. If it had been clear cryptocurrency was being purchased with that card payment, I think she could have recognised it and questioned what was happening. As she did not, I think it is most likely this was hidden from Miss M.

With the above in mind, I do not agree that there should be a reduction in the redress in this particular case as I do not think Miss M significantly contributed to the loss. I have also considered the distress and inconvenience that the delays and Monzo's decision not to reimburse Miss M in full when she raised a scam claim has had on her. While I accept some of the issues Miss M has faced since, such as no fixed abode, were not foreseeable to Monzo, I do think the distress the financial loss caused her was foreseeable. This was a significant loss for Miss M and the funds were meant to be for six months of accommodation abroad, so these funds would need to be paid again to secure the actual accommodation. As a result, the loss of these funds have had a real impact on her and caused her distress and inconvenience. With this in mind, I agree with the Investigator's recommendation of an additional £250 compensation, bringing the total to £300.

Putting things right

Monzo Bank Ltd should reimburse Miss M in full and apply 8% simple interest on the funds from the date of the transaction to the date of settlement, less any lawful tax.

It should also pay her an additional £250 compensation, which will bring the total paid to £300.

My final decision

I uphold Miss M's complaint and recommend Monzo Bank Ltd pay the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 30 June 2025.

Rebecca Norris

Ombudsman