

The complaint

Miss M complains that Monzo Bank Ltd won't refund a payment she didn't make.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute, so I'll focus on giving the reasons for my 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've reached the same outcome as our investigator for these reasons:

- The starting position, in line with the Payment Services Regulations 2017 (PSRs), is that Miss M isn't liable for payments she hasn't authorised. The PSRs explain that authorisation depends on whether the payment was authenticated correctly and whether Miss M consented to it.
- There doesn't appear to be any dispute over whether the disputed payment was properly authenticated. Thinking about consent next, the PSRs state how consent is given. It must be in the form, and in accordance with the procedure, agreed between Miss M and Monzo. In other words, consent is provided when Miss M completes the agreed steps for making a payment.
- It's my understanding that Miss M's card details were entered to initiate the payment. Then, either her PIN was entered, or her biometrics were used on the banking app, to complete the transaction. Having considered the available information, I'm not persuaded it was Miss M who entered her card details to initiate the payment. Instead, it seems fraudsters did this using her stolen card details.
- Monzo argues that Miss M consented to the payment as she took steps in her banking app to complete it. It submits that its terms and conditions set out how a customer can consent to making a payment, which includes entering the PIN or using biometrics in the app. And it highlights that Miss M has taken these steps to make payments in the past.
- But, in the circumstances of the scam, Miss M didn't take these steps with the understanding that she was consenting to a payment. Rather, she was tricked into thinking this was part of the procedure to refund fraudulent transactions.
- It's also important to note that these steps within the app aren't enough to execute a payment – additional steps, such as entering the card details and payment amount, are needed. And I can see that Monzo's terms appear to acknowledge this (see 'Info the merchant may need to take the payment').

- Given that I find Miss M didn't complete all the steps to make the payment, despite Monzo's position on the matter, the payment is unauthorised.
- Monzo has also submitted that Miss M failed with gross negligence to comply with the terms of the account and keep her personalised security details safe. This is something which, if proven, would mean she wouldn't be entitled to a refund for this unauthorised payment under the PSRs.
- In saying this, it's pointed to holes in the narrative of the scam. Namely, that Miss M hadn't suffered any losses, so it wasn't reasonable for her to take steps to refund fraudulent payments. And that in general, a bank wouldn't ask someone to approve a payment to review a refund. It adds that Miss M approved a payment to a random merchant – which didn't have any relation to her or Monzo.
- I'm mindful it's easy to be critical of someone's actions with the benefit of hindsight. But at the time, Miss M genuinely believed she was talking to someone from Monzo. I can understand that given the personal information they knew about her; the familiar security questions they asked; and how notifications appeared in her banking app when they told her to expect them. I think lots of people would've done in these circumstances.
- I've also considered that Miss M didn't recognise a payment was being made – instead she thought she was taking steps to refund fraudulent transactions. Given her trust in the caller and her concern for her account, I can see how she simply relied on what she was being told at the time, and how she didn't, therefore, recognise this process meant money would leave her account. After all, Miss M wasn't an expert in fraud or Monzo's procedures. Nor did she know the caller had her stolen card details and, therefore, the means to initiate a payment.
- It follows that, while I understand Monzo's criticisms, I don't think it's enough for me to say she failed with *very significant* carelessness – to conclude she failed with *gross negligence*.
- So, in line with the PSRs, I don't consider Miss M can be fairly held liable for this unauthorised payment and Monzo needs to put things right – by refunding her losses from the payment alongside 8% simple interest per year to compensate her for the time it's been out of pocket.
- Monzo paid Miss M £50 for its delays in responding to Miss M's fraud claim. I've considered whether this is a fair reflection of her non-financial losses. Miss M mentions she had to borrow money for necessities, but that's not clear looking at her statements from the time. So, given I've no further details about this, I've not increased this award.

My final decision

For the reasons I've explained, I uphold Miss M's complaint. Monzo Bank Ltd must:

- Pay Miss M the total of the unauthorised payment, less any amount recovered or refunded. I understand this to be £1,900.
- Pay 8% simple interest per year on the amount from the date of the unauthorised payment to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept

or reject my decision before 21 March 2024.

Emma Szkolar
Ombudsman