

The complaint

N, a sole trader, complains that Monzo Bank Ltd (“Monzo”) won’t refund the money it lost when it fell victim to a vehicle purchase scam.

Miss B is acting on behalf on N and it was she who fell victim to the scam – so I have referred to her throughout this decision.

What happened

The background to this complaint is well known to both parties and was set out in the investigator’s view of 12 January 2024. But briefly, in February 2023, Miss B was looking to buy a van for her business. She found an advert on a social media marketplace and messaged the seller and they agreed a sale. On 21 February 2023 Miss B transferred £9,395 to the seller, but when no van arrived, she realised she had been scammed.

Monzo declined Miss B’s claim because it didn’t feel she had taken sufficient steps to verify the legitimacy of whom she was paying and for what. It also felt it gave sufficient warnings. Our investigator upheld the complaint in part. He felt the warnings Monzo provided were not effective warnings, but he also felt Miss B could have done more to check the legitimacy of the opportunity. So he recommended Monzo refund 50% of the transaction.

Miss B accepted the view. Monzo didn’t agree so the case has been passed to me for a 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.

When considering what is fair and reasonable, I’m also required to take into account: relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer’s account. There’s no dispute here that Miss B authorised the payment – albeit she was tricked into making it. She thought she was buying a van, but this wasn’t the case.

However, where a customer makes a payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

The CRM Code

Monzo isn’t a signatory of the Lending Standards Boards Contingent Reimbursement Model (CRM) Code but has said it is committed to applying the principles set out in it. So when

thinking about what is fair and reasonable in this case, I've considered whether Monzo should have reimbursed Miss B in line with the provisions of the CRM Code and whether it ought to have done more to protect Miss B from the possibility of financial harm from fraud.

The CRM Code 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.

It is for Monzo to establish that one or more of the exceptions apply as set out under the CRM Code. The exception relevant to this case is:

- In all the circumstances at the time of the payment, in particular the characteristics of the Customer and the complexity and sophistication of the APP scam, the Customer made the payment without a reasonable basis for believing that: (i) the payee was the person the Customer was expecting to pay; (ii) the payment was for genuine goods or services; and/or (iii) the person or business with whom they transacted was legitimate.

There are further exceptions within the CRM Code, but they do not apply in this case.

Miss B's representative accepted the investigator's conclusions – in which he made a 50% deduction for her lack of reasonable basis for belief. So, I haven't gone over those details again. But for completeness I do agree with the investigator and broadly for the same reasons. Instead, I have focused on why I think Monzo should pay the remaining 50%.

Even when a firm has been able to establish that one (or more) of the exceptions to reimbursement apply it does not necessarily mean it will not still be liable to reimburse the victim in part. This is because I need to consider whether the firm met all of its requirements (standards for firms) under the CRM Code.

The CRM Code outlines the standards a firm is expected to meet. And it says that when assessing whether the firm has met those standards, consideration must be given to whether compliance with those standards would have had a material effect on preventing the APP scam that took place. The CRM Code further explains that if firms fail to meet these standards, they may be responsible for meeting the cost of reimbursing.

The CRM Code says that effective warnings should be risk based and, where possible, tailored to the APP scam risk indicators and any specific APP scam types identified through the user interface with which the customer is initiating the payment instructions.

Should Monzo have provided an effective warning?

Monzo accepts that the payment was a higher value payment than N had paid in the past but it also says the payment was not out of character compared to normal activity on the account. It feels it was not suspicious or significantly large enough to warrant additional caution.

Monzo supplied N's statement for the 12 months running up to the scam. This is a sole trader account – a small business where multiple daily transactions of minimal amounts are made. A mixture of card payments, bill payments and faster payments – which in themselves are not unusual, but they are in the low in value (i.e low hundreds or less). So, the payment for £9,395 was out of character compared to the normal activity. Not only was it the highest payment made out of the account in previous 12 months – it was significantly higher than any of the previous transactions. I do accept there is a balance to be struck between intervening on genuine payments. But it stands out against the previous activity and even in the context of a one-off payment – I think the transaction was large enough to indicate the customer was potentially at risk of APP fraud. So I think Monzo should have provided an effective warning.

Was the warning provided effective?

In order for a warning to be 'Effective' as set out under the CRM Code - it must, as a minimum be: clear, specific, understandable, timely and impactful. I don't think the warnings Monzo presented Miss B with would be considered as 'effective' as defined under the CRM Code. I say this because:

The warning was not specific to the type of scam Miss B was falling victim to. The warning speaks generically about hallmarks, which could be relevant to a wide range of scams. The warning doesn't refer to transfers arranged online or over social media being at higher risk of fraud or explain why. There is nothing within the warning that speaks of fraudsters using social media platforms to pose as legitimate traders or that the goods or services they advertise can appear genuine when they aren't.

I appreciate it does warn to stop if the offer sounds too good to be true and double check who you are paying. But overall, the warning lacks impact – it fails to bring alive some of the key features of purchase scams or highlight the key risks. So, I don't think it can be considered to be an Effective Warning. I therefore don't think Monzo has met its standards as a firm and liability for the loss should be shared between Miss B and Monzo.

Finally, I've considered whether Monzo did all it could to try and recover the money Miss B lost, once she had reported the scam to it. Monzo holds the beneficiary account and has confirmed that all the money had been transferred out of the account on 21 February 2023; three days before Miss B reported it to Monzo - so unfortunately it wasn't able to recover any of the money lost. This is not unusual as most scammers move money out within hours. I appreciate Miss B didn't realise she'd been the victim of a scam earlier, but I don't think Monzo could do anything more to recover Miss B's funds.

Putting things right

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

- 50% of the money lost – so £4,697.50

- Pay interest on that amount at 8% simple per annum from the date it declined Miss B'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 and Monzo Bank Ltd must put things right for N as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask N to accept or reject my decision before 28 March 2024.

Kathryn Milne
Ombudsman