

The complaint

Mr S is unhappy that Monzo Bank Limited ('Monzo') won't refund money he paid to a third party.

What happened

Mr S says that he knew someone I'll refer to as G in this decision through a spiritual group. He says that G contacted him saying he was in a bad state financially and had cancer. G was in tears and asked Mr S to loan him money until he received his sick pay on 17 February 2023 (a few days later). G didn't return Mr S' money and stopped communicating with Mr S.

I have set out in the table below the payments Mr S made to G.

Date	Amount
14/02/23	£250
14/02/23	£150
15/02/23	£250
15/02/23	£150
17/02/23	£75
18/02/23	£20
Total	£895

Mr S contacted Monzo to report what had happened on 23 February 2023. During its investigation Mr S said that he had obtained a County Court Judgement for Claimant (in default) in respect of the funds Mr S lent to G. I'll refer to this as a CCJ in the rest of my decision.

Monzo said Mr S was involved in a civil dispute with G.

Mr S was unhappy with Monzo's response and brought a complaint to this service. He provided evidence to show that G had been dishonest in obtaining money from other people.

The investigator who considered Mr S' complaint recommended that it be upheld. He said that the fact Mr S knew G didn't automatically make it a civil dispute and that the judgement in default didn't mean that a court had already considered the merits of Mr S' complaint. The investigator went on to consider Mr S' complaint under the Lending Standard Board's Contingent Reimbursement Model Code (CRM Code) and said that as none of the exceptions to reimbursement applied Mr S should receive a full refund.

Monzo didn't agree with the investigator's findings so Mr S' complaint has been passed to me to consider. In summary, Monzo said:

- Mr S has a CCJ and this service and Monzo should not be interfering in the court process. The judgement was also obtained in a civil court rather than a criminal court, which points to this being a civil dispute.

- Mr S wasn't expecting to receive anything in return for the loan. So effectively Mr S has lent money to a friend who hasn't paid it back, which is a civil matter. The fact G reneged on the agreement isn't a matter for Monzo.
- As this is a civil dispute any points about Mr S' reasonable basis for belief are irrelevant.

The complaint was passed to me, and I issued my provisional decision on 8 February 2024. I provisionally concluded that Mr S has a civil dispute with G which isn't covered by the CRM Code. In the "*What I've provisionally decided – and why*" section of my provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I appreciate Mr S has lost money and his trust in G was misplaced, but that doesn't of itself mean that Monzo is responsible or that it now needs to refund him.

In broad terms, the starting position in law is that Monzo is expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations (PSR's).

The CRM Code provides protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment (APP) scam (except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met. I have set this definition out below:

...a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

The CRM Code is also explicit that it doesn't apply to private civil disputes.

Monzo will only be responsible for Mr S' loss if the circumstances of that loss are covered by the CRM Code. But, for its provisions to be relevant, Mr S must have fallen victim to a scam. In this case, in my view, that means the evidence must support a finding that G deceived Mr S into lending him money and had no intention of returning it at the time it was paid (and not subsequently). Such a finding would essentially be one of criminal wrongdoing. That's not a finding that should be made lightly.

The evidence Mr S has for such a finding is quite limited and largely relies on some suggestions of bad character and misrepresentations to others about charity work and possibly G's health (as I and Mr S can't know for sure anything about G's actual health). I can only consider the individual circumstances of Mr S' complaint and G's intent in respect of the payments in the table above. So, for example, general comments from a third party about G having a habit of lying, twisting the truth and attention seeking aren't relevant here. Neither are comments from others about G taking money for charity work that may or may not have been used for that purpose.

Mr S has also provided some recordings of calls with G when he has asked for his money back, but Mr S has talked over the other person to such an extent that I didn't get to hear G's explanation or learn anything other than the fact Mr S thought G owed him money, and G seemed to accept this. It's also clear from the messages Mr S has shared that G made promises about repayment that weren't kept and it's not clear whether his claim that his account was frozen was true. But I'm afraid that failed promises to repay don't persuade me that the loan was obtained by deception.

Mr S has also provided another call between G and a third party in which he says G admitted scamming him, but I don't agree. All that was said was that the person in the call was trying to sort things out with Mr S. And although Mr S says G lied on many occasions, I have no way of establishing if this is true given our informal process.

I also haven't been provided with any evidence from any third party organisation like the police to support Mr S' claim that he is the victim of a scam. I'm afraid that only a police investigation may be able to establish criminal wrongdoing (or otherwise) on the part of G. That means I can't consider these circumstances under the provisions of the CRM Code, and I don't intend to ask Monzo to refund the lost money. It also means that Monzo wasn't required to try to recover Mr S' loss (although it took steps to do so).

Mr S issued court proceedings against G and obtained a judgement in default as G didn't attend court, so he has an avenue to pursue his loss.

I'm sorry that Mr S has lost out here. I don't doubt what he's said about being taken advantage of and I accept that he may not have agreed to provide the loan under different circumstances. But, for the reasons I've explained, I can't see any grounds to hold Monzo responsible for his loss.

Neither party responded to my provisional 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.

Neither party has responded to my provisional decision. I haven't seen any further information which has persuaded me to reach a different conclusion to that which I reached in my provisional decision (and which I have reproduced above).

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 April 2024.

Jay Hadfield
Ombudsman