

The complaint

Miss K complains Monzo Bank Ltd (“Monzo”) refuses to refund her for transactions on her current account she says she didn’t authorise.

What happened

The details of this complaint are well known to both parties, and I am mindful that Miss K has expressed difficulty in talking about what she’s been through. So, I have provided a summary of what happened below.

Miss K is disputing transactions made on her account between February 2022 and January 2023. Miss K has been the victim of domestic and economic abuse and explains that her abuser, who I will refer to as B, has stolen money from her account.

Monzo says Miss K first complained to it on 28 February 2024, stating that she had recently regained control of her accounts and noticed B had transferred £500 into his own account on 9 October 2023, without her authorisation. Monzo refunded this money. Then on 8 March 2024 Miss K contacted Monzo again to complain about all the transactions from her account to B’s account from 1 January 2023 onwards. Monzo refunded this money. Monzo says it asked Miss K at this point whether there are any other transactions she wished to complain about, and she said no. So, it is now not willing to consider the transactions she disputes from February 2022 to January 2023.

Our investigator considered this complaint and concluded that it wouldn’t be fair to hold Monzo liable for the transactions still in dispute. In summary, she explained the principle of apparent authority, making Miss K liable for the transactions after giving access to B to her account information and allowing him to make payments for her. She acknowledged Miss K’s difficult living situation but felt it wouldn’t be fair to ask Monzo to repay the remaining disputed transactions, especially since she didn’t raise these before when asked.

Miss K did not agree with the investigator’s outcome, so the complaint has been passed to me to make 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.

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

Having done so, there is no doubt in my mind that Miss K has been taken advantage of financially. But my role isn’t to determine whether Miss K has been the victim of a crime. My role is to determine whether it would be fair and reasonable to require Monzo to refund the disputed transactions is entitled to hold Miss K responsible for the disputed transactions.

Of particular importance to my decision about what is fair and reasonable in the circumstances of this complaint, are the Payment Services Regulations 2017 (the PSR) which apply to transactions like the ones Miss K disputes.

Among other things, Regulation 67 of the PSR 2017 explains:

*“(1) A payment transaction is to be regarded as having been authorised by the payer for the purposes of this Part only if the payer has given its consent to—
(a) the execution of the payment transaction; or
(b) the execution of a series of payment transactions of which that payment transaction forms part.”*

Whether a payment transaction has been authorised or not is important because account holders will usually be liable for payments they've authorised and, generally speaking, banks will be liable for unauthorised payments. If Miss K made the disputed transactions herself or authorised them to be made on her behalf, it would not be fair to ask Monzo to refund them. But Miss K has been very clear that she does not consider the transactions in dispute as authorised by her. She's explained that she didn't make them herself and she did not know that the transactions were being made. But I'm sorry to have to tell Miss K that this doesn't automatically mean that those transactions are unauthorised and that they should be refunded to her.

As our investigator explained, if a payer has enabled the use of their payment instruments by a third party, so that it looks to the bank like the payment transaction has been authorised by the payer, the payment can be considered authorised for the purposes of the PSRs. In other words, if someone gives a third party access to their account, they're deemed to have authorised what that third party does even if they didn't specifically know about or agree to individual payments.

Monzo have provided evidence that the transactions were carried out on the only registered device linked to Miss K's account. And Miss K has told us that she gave B access to her phone as well as her account security information. The bank's terms and conditions explain that Miss K has a responsibility to keep her payment credentials safe. The terms say Miss K should not give them to anyone else or let anyone else use them. If someone is able to take money from an account because payment credentials have not been kept secret, the bank is unlikely to be able to refund the money.

What this means is that Monzo made clear that it was important that Miss K keep her account safe. I appreciate she was in a very difficult situation and felt that she had no choice but to allow B access to her account. But the regulations say that in situations like this the transactions are deemed to be authorised, even if the account holder has shared details with someone under duress. In thinking about whether Monzo has acted fairly and reasonably in not refunding the third group of transactions Miss K complained about, I have to take that into account.

Miss K says she gave B access to her accounts because he was controlling, and she felt like she had to. She also says she wasn't aware B had been transferring all this money to his own account. But I have seen evidence of other payments made from Miss K's account to other parties, and incoming payments too. And Miss K hasn't disputed these. So, either Miss K gave B authority to make these payments for her too or she still had access to her account to make them herself. I have also seen incoming payments from B into Miss K's account. This is not usually what we see when someone, even someone closely related, is trying to steal money.

I have seen that Monzo have refunded Miss K over £3,000 in disputed transactions already.

Monzo says it gave Miss K the opportunity to raise any further disputed transactions at that time, and Miss K said there were no other transactions she wished to report. Then, after her previous complaints had been resolved, she came back to raise further disputes. So, we asked Miss K why she didn't raise all the disputed transactions when Monzo asked her. Miss K says she followed the advice of her solicitor and now she is following the advice from the Police. While I appreciate that she must have been feeling vulnerable following her relationship with B, I am not persuaded by what she has said. According to what Miss K has said, at the time she first brought her complaint to Monzo she no longer had any relationship with B, and she was away from the abuse he inflicted. And she was able to raise her complaint with Monzo about some of the transactions, so it's difficult to understand why she didn't mention the earlier transactions had they also been unauthorised.

There is no legal obligation for Monzo to reimburse the funds. But it remains good practice for Monzo to investigate what has happened and to consider whether it would be appropriate to reimburse some or all of the money on a case by case basis, especially in situations where it is clear that its customer has been the victim of financial abuse. Monzo has considered the difficult situation Miss K was facing and it refunded Miss K over £3,000 already. I have to be fair and reasonable to both sides in a complaint. In this case I feel I cannot fairly compel Monzo to do more when the relevant law, rules, codes and good practice do not say that it should.

I am sorry to have to deliver this news to Miss K. I know this wasn't the answer she was hoping for. I can't even begin to imagine how difficult the last few years have been for her, and she has my sympathy. However, from what I have seen, I don't think it is fair to ask Monzo to refund any more money to Miss K in relation to her disputed transactions complaint.

My final decision

For all the reasons outlined above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 12 August 2024.

Sienna Mahboobani
Ombudsman