

The complaint

Mr A is unhappy that Monzo Bank Ltd (“Monzo”) didn’t do more to help him after he was the victim of a scam.

What happened

Mr A has an account with Monzo. In May 2020, he decided to invest his money using the services of someone who had approached him on a social media platform. I understand

Mr A had been approached by this individual in the past and opted to not respond. However, on this occasion he was persuaded that it would be worth investing his money with him.

Unfortunately, the individual that had contacted Mr A wasn’t a legitimate investment manager but a fraudster. Mr A made several transfers to this individual on the understanding that he was making a short-term but high-yielding investment speculating on movements in foreign exchange. Some of those transfers (but not all) were made from his Monzo account. In total, he transferred just over £3,000 from his Monzo account.

Once he realised that he’d been the victim of a scam, he contacted Monzo to let it know. It investigated his concerns but said it wouldn’t pay him a refund. It didn’t think Mr A had taken adequate steps to verify that the person he was dealing with was legitimate. Mr A was unhappy with Monzo’s response and so he referred his complaint to this service. It was looked at by an Investigator who didn’t uphold it. The Investigator considered whether it was fair and reasonable for Monzo to have declined Mr A’s claim under a specific voluntary code of practice – the Contingent Reimbursement Model (“CRM”) Code.

This code sets out the circumstances under which a firm should pay a refund to a customer and where it can choose to not do so. The Investigator noted that a firm could opt to not pay a refund if (amongst other reasons) it was satisfied that its customer made the payment without a reasonable basis for believing that the person they were paying was legitimate.

The Investigator concluded that there were several factors that ought to have made Mr A realise that it was unlikely he was dealing with a legitimate investment manager.

Mr A was unhappy with the investigator’s conclusion and so the complaint has been passed to me to consider and reach 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 have been good industry practice at the 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 Mr A authorised these payments.

However, under the CRM code, a firm is expected to reimburse a customer who is the victim of an Authorised Push Payment ("APP") scam, like Mr A. Monzo hasn't signed up to the code, but it has agreed to follow its provisions. There are a limited set of circumstances set out in the code in which a firm can choose not to reimburse its customer. One such circumstance (and the most relevant in this case) is where it can be demonstrated that the customer made the payments without having a reasonable basis for believing that:

- The payee was the person the Customer was expecting to pay;
- The payment was for genuine goods or services; and/or
- The person or business with whom they transacted was legitimate.

Monzo says it won't refund Mr A's losses because it doesn't think he had a reasonable basis for believing that he was dealing with a legitimate person. I've considered that point carefully and I agree with that conclusion. I say that because:

- He was promised an unrealistically generous return on his investment – he was told that he should expect to double his investment within 24 hours and that such a generous return could be achieved without any risk to his investment or paying a fee for the services of the investment manager. I think Mr A ought to have treated this promise with more scepticism than he did and recognised that it was likely too good to be true.
- Mr A was asked to make payments to private individuals that, on the face of it, were not connected with the company that was supposedly managing his investment. None of the payments he made were to a company bank account or to any individual connected with the company he believed was managing his investment. I think this would've been reasonable grounds for suspicion, but as far as I can see, Mr A didn't question this with the scammer.
- There were no formalities in terms of the agreement he'd reached with the scammer – he hadn't seen or agreed to a contract or received any literature explaining the terms on which the investment was being offered.
- When Mr A was told that he'd need to pay fees in order to access the return on his investment, this came as a surprise to him. From what he's told me, there had been no conversation with the scammer about the likelihood of his investment attracting future fees. When the scammer asked Mr A to pay surprise fees, I think he ought to have been concerned about the obvious informality of the arrangement he'd reached.
- I've looked at screenshots of the communications Mr A had with the scammer. The tone of these messages is unusually blunt and confrontational. I think most customers would be shocked to receive any of these communications from a legitimate business and so I think Mr A ought to have recognised this as a warning sign.

- Mr A says he did carry out checks on the investment provider – they told him they were a duly registered company in the UK and that he could check their registration at Companies House. When he did this, he found a company that was actively trading but that appeared to operate in an unconnected field. I wouldn't have expected Mr A to carry out checks on the investment provider with forensic detail – but I don't think there was much about the data on the Companies' House website that should've reassured him, particularly in the light of the clear warning signs I've described above.

I don't doubt that Mr S has been the victim of a cruel scam here and he has my sympathy. But I'm persuaded that the weight of the evidence supports the conclusion that he made these payments without a reasonable basis for belief and so failed to meet the requisite level of care required under the CRM Code. It follows that it was fair and reasonable for Monzo to decline to reimburse him for his losses.

Should Monzo have done anything else to prevent the scam?

Good industry practice requires that regulated firms such as Monzo engage in monitoring of customer accounts and to be on the lookout for suspicious or out of character transactions with an aim of preventing fraud and protecting customers from financial harm. And under the CRM Code, where it identified a risk of a customer falling victim to an APP scam, it was required to provide that customer with an "effective warning".

We now know with the benefit of hindsight, that Mr A was falling victim to a scam. But based on the information that was available to it at the time, I don't think Monzo would've had any reasonable basis for coming to that conclusion. I say that because they wouldn't have appeared out of character or unusual. I say that because the payments themselves weren't particularly large. Furthermore, Mr A doesn't seem to have been using this account as his principal bank account but primarily as a means of making payments. As a result, it would be difficult to say that the transfers to the scammer were a deviation from a normal pattern of use. For those reasons, I don't think the CRM Code required that Monzo display an effective warning as part of the payment process and I'm not persuaded it would've had any grounds for intervening to question the payment with Mr A before allowing it to be processed.

I can also see that Monzo didn't act quickly enough to attempt to recover Mr A's losses after he notified them that he'd fallen victim to a scam. But from the evidence the Investigator gathered from the receiving banks, I can see that this wouldn't have made any difference. By the time Mr A told Monzo what had happened, his funds had already been moved out of those accounts.

My final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 10 November 2021.

James Kimmitt

Ombudsman