

## The complaint

Mr F complains that Monzo Bank Ltd won't refund the money he lost when he was the victim of a scam.

## What happened

Mr F was called by someone claiming to be an investment broker and asked if he wanted to make money from bitcoin. Unfortunately, we now know the caller was a scammer.

Mr F was told he just needed to invest £250 to get started and was shown evidence of successful trades the caller had made. The caller then said that, if Mr F could invest more money, he guaranteed he would be able to pay off his mortgage in a year. And that, if Mr F borrowed money so he could invest more, he would be able to pay it back in two weeks.

Mr F then made a series of payments, firstly to a cryptocurrency wallet the caller helped him set up, and then transferred direct to bank account details the caller gave him. I've set out the payments Mr F made below:

Date	Amount	Details
5 August 2020	£2.00	To cryptocurrency wallet
6 August 2020	£1,650.00	To cryptocurrency wallet
11 August 2020	£2,311.00	To cryptocurrency wallet
11 August 2020	£2,202.00	Bank transfer
14 August 2020	£7,650.00	Bank transfer
20 August 2020	£4,010.00	Bank transfer

After two weeks, Mr F asked if he could withdraw some of his money to pay back what he had borrowed. But he was told he couldn't, and the caller then stopped responding to his calls and texts. Mr F then realised it was a scam and contacted Monzo to report it.

Monzo isn't a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code) but has explained it is committed to applying the principles set out in it. The CRM code requires firms to reimburse customers who have been the victims of authorised push payments scams, except in limited circumstances. Monzo investigated Mr F's case but said one or more of the exceptions applied. It said Mr F had made the payments without a reasonable basis for believing they were legitimate, so he wasn't entitled to a refund under the CRM code. It did offer him £200 as compensation for delays in its response to his complaint. Mr F wasn't satisfied with Monzo's response, so brought a complaint to our service.

One of our investigators looked at Mr F's complaint. They felt the CRM code didn't apply to the first three payments, as the cryptocurrency wallet they were sent to was in Mr F's own name. They also felt Mr F had made the last three payments without a reasonable basis for believing they were legitimate. But they also felt Monzo had failed to meet its obligations under the CRM code by not providing Mr F with effective warnings when he made the last two payments. So they felt Monzo should refund 50% of the fifth and sixth payments, under the CRM code. They also felt Monzo's offer of compensation for the delays in its response to

Mr F's complaint was fair. Monzo disagreed with our investigator, so the complaint has been passed to me.

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

When thinking about what is fair and reasonable in this case, I've considered whether Monzo should have reimbursed Mr F under the provisions of the CRM code and whether it ought to have done more to protect him from the possibility of financial harm from fraud.

#### *The CRM code*

As I mentioned above, Monzo has committed to follow the Lending Standards Board Contingent Reimbursement Model (the CRM code) although it isn't a signatory. 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. And it is for the firm to establish that a customer failed to meet their requisite level of care under one of the listed exceptions set out in the CRM code.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
  - o the payee was the person the customer was expecting to pay;
  - o the payment was for genuine goods or services; and/or
  - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

#### *Does the CRM code apply to these payments?*

I've first considered whether the CRM code applies to all the payments Mr F made as a result of this scam.

The CRM code covers payments where a customer paid funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent. But the first three payments Mr F made weren't sent to another person, but to a cryptocurrency wallet in Mr F's own name.

I recognise that Mr F only set up the cryptocurrency wallet under the direction of the scammer and that the scammer also had access to the wallet. But I think the way the CRM code is written means that it doesn't apply to these first three payments.

The last three payments were all sent directly to bank account details Mr F was given by the scammer, and this account was not in Mr F's name. So I think the CRM code does apply to last three payments and I've gone on to consider whether Monzo should have refunded the money Mr F lost as a result of these payments, under the provisions of the CRM code.

*Did Mr F have a reasonable basis for belief?*

This was clearly a cruel scam and I'm sympathetic towards Mr F's position. But I need to consider not just whether Mr F believed what he was being told, but whether it was reasonable for him to do so.

Mr F says he was called by the scammer and asked if he wanted to make money from bitcoin, rather than their contact being the result of Mr F going out and looking for investment advice. And I think this should have caused Mr F some concern, as I think it's unusual for a legitimate investment broker to be approaching potential clients in this way.

Mr F also says he was sent evidence of successful trades the scammer had made. But this evidence appears to just be screenshots of lists of completed trades, with no way for Mr F to confirm the scammer had made the trades themselves or that the trades were actually carried out. So I don't think this evidence should have been very convincing.

I also think what the scammer told Mr F about the returns on his investment was too good to be true. Mr F says he was told he could make enough to pay back anything he'd borrowed within two weeks, which effectively means he'd have doubled his money in that time. And he says he was told he could make enough to pay off his mortgage in a year, which would mean he'd get back around ten times what he'd invested after a year. I appreciate Mr F may not have invested previously, but I think a reasonable person would still find these returns unusually high – particularly over relatively short periods of time.

The scammer also doesn't appear to have given much of an explanation of exactly what kind of trading or investment was involved or why they were able to offer such significant returns. And Mr F doesn't appear to have asked for any evidence or done any checks into who the scammer was or who they worked for.

So I don't think Mr F had a reasonable basis for belief that the payments he was making were for genuine services or that the person he was paying was legitimate.

*Did Monzo meet its obligations under the CRM code?*

Even though I don't think Mr F had a reasonable basis for belief when making the payments, he may still be entitled to a refund of 50% of the money he lost if Monzo didn't meet its obligations under the CRM code – one of which is to provide effective warnings.

The CRM code says that, where firms identify APP scam risks, they should provide effective warnings to their customers. It sets out that an effective warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And, as a minimum, the CRM code sets out that an effective warning should be understandable, clear, impactful, timely and specific.

The fourth payment Mr F made wasn't for a particularly large sum of money and didn't leave the balance of the account in a particularly unusual position. So I don't think Monzo was

obliged to provide an effective warning in relation to this payment. But the fifth and sixth payments Mr F made were for much larger amounts, and were significantly larger than any other payments out of the account in the previous six months. So I think Monzo should have identified a scam risk and provided an effective warning for these fifth and sixth payments.

Monzo's records show no warning was provided when Mr F made the fifth and sixth payments. But Monzo says that, as a warning was provided for the fourth payment, it has met its obligations under the CRM code.

As I said above, one of the requirements the CRM code sets out for effective warnings is that they be timely. And the fourth payment was made three days before the fifth payment and nine days before the sixth payment. So I don't agree the warning given for the fourth payment can be an effective warning for the fifth and sixth payments, or that Monzo has met its obligations to provide effective warnings as a result.

I also don't think the warning Mr F was shown for the fourth payment would have been effective if it had been shown for the fifth and sixth payments. The warning message Mr F was shown when making the fourth payment said:

*"Stop, don't pay. It's very likely this is a scam."*

*Remember:*

- *Bank transfers arranged online or over social media are at a higher risk of fraud*
- *Bank transfers aren't protected in the same way as card payments*

*Pay by card if you can*

*You might not be able to get your money back if this does turn out to be a scam. Find a legitimate seller who lets you pay by card."*

And after he clicked to continue with the payment, Mr F was then shown another warning, which said:

*"Are you sure?"*

*Once you make a payment, it's almost impossible for us to get the money back."*

And while these warnings do explain the consequences of proceeding with the payment and give an example of steps Mr F could have taken to try to avoid the risk, they don't give any examples of what the scam might look or feel like. They don't explain possible warnings signs this could be a scam or how Mr F could identify whether it was a scam. And talking about a "seller" isn't relevant to the specific type of scam Mr F had fallen victim to.

So I don't think these warnings were specific enough to be effective in Mr F's circumstances. And so I don't think Monzo has met its obligations under the CRM code in relation to the fifth and sixth payments Mr F made.

Overall then, I don't think Mr F had a reasonable basis for belief that any of the payments he was making were for genuine services or that the person he was paying was legitimate. But I think Monzo failed to meet its obligations under the CRM code in relation to the fifth and sixth payments. And so I think Monzo should refund 50% of the fifth and sixth payments, under the provisions of the CRM code.

### *Should Monzo have done more to protect Mr F?*

In addition to its responsibilities under the CRM code, when Mr F made this payment, Monzo should fairly and reasonably have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). And for the same reasons I think it should have given effective warnings, I think it should have identified that Mr F could be at risk of fraud as a result of the fifth and sixth payments.

And if Monzo had stepped in and asked further questions before processing the fifth and sixth payments, as I think it should have, I think it's likely the scam would have been uncovered and Mr F wouldn't have been without his money. So I think Monzo should pay interest on the refund from the date the payments were made.

### *Delays*

Monzo has offered Mr F £200 as compensation for the delays when it was initially looking into his complaint. And, based on the evidence I've seen, I think this offer is fair and reasonable in the circumstances.

### **My final decision**

For the reasons set out above, I uphold this complaint and require Monzo Bank Ltd to:

- Refund Mr F 50% of the fifth and sixth payments he made as a result of the scam, for a total of £5,830
- Pay 8% simple interest on this refund from the date of the payments until the date of settlement
- Pay Mr F £200 compensation, if it has not already done so

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 1 June 2022.

Alan Millward  
**Ombudsman**