

The complaint

Mr K is unhappy Monzo Bank Ltd haven't refunded money he lost as a result of a scam.

Mr K is being represented by a claims management company but for ease of reading I'll refer to him throughout the decision.

What happened

In March 2021 Mr K decided to send two payments via his debit card to a merchant – I'll refer to here as 'C' via a legitimate cryptocurrency exchange. Mr K sent £216.91 on 19 March 2020 and a further £8,050 on 31 March 2020.

Mr K also sent payments towards the scam from another of his bank accounts in 2020. Later in 2020 Mr K tried to withdraw his money from C but wasn't able to do so. Shortly afterwards he lost contact with C so Mr K raised a claim with Monzo.

Monzo reviewed the claim but said it didn't do anything wrong by allowing the payments to be sent, so it wouldn't be refunding any money to Mr K. And Monzo said it didn't raise a chargeback because the money had been sent to a legitimate cryptocurrency exchange, so a chargeback was unlikely to be successful. But Monzo did accept it didn't respond to Mr K's complaint in a timely manner, so it offered to pay £25 to him.

Our investigator didn't think the complaint should be upheld. She said that Monzo should've flagged the second payment Mr K made towards the scam of £8,050 because it was unusual for the account. But due to Mr K's testimony she wasn't satisfied that a fraud and scams warning would've made a difference here because he saw multiple warnings and questioned this with the merchant but still went ahead and made payments towards the scam.

Mr K didn't agree and has asked for an Ombudsman's review. He said that Monzo should've asked probing questions and provided him with a fraud and scams warning after he made the second payment and if it had he wouldn't have continued with the payment.

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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I know Mr K feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

Recovery

I've thought about whether Monzo did enough to attempt to recover the money Mr K lost, as there are some instances where debit card transactions can be refunded through making a chargeback claim. But in this case, a chargeback wouldn't have been successful, as the

payments Mr K used his debit card for were to a legitimate cryptocurrency exchange for the purchase of cryptocurrency, which he duly received.

The money was subsequently lost from the crypto platform when he transferred the funds to the scammer. So, he couldn't claim that he didn't receive the goods or services paid for from his Monzo account, which was the purchase of the cryptocurrency. As a result, I don't think Monzo have acted unreasonably by failing to pursue a chargeback claim here.

Prevention

While I don't think that Monzo could have done more with regards to the recovery of Mr K's funds once it was made aware of the situation, I've also considered whether it ought to have intervened before allowing any of the payments to be made.

Under regulations and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for authorised payments rests with the payer, even where they are duped into making that payment. There is no dispute that Mr K made the payments, and so they were authorised.

However, in accordance with the law, regulations and good industry practice, a bank has a duty to protect its customers against the risk of fraud and scams so far as is reasonably possible. If, in breach of that duty, a bank fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for the losses incurred by its customer as a result.

What this means is that as a starting point Mr K is liable for these transactions unless there's evidence that Monzo could and should reasonably have done more to protect him and that this would have made a difference.

I've taken into account the law, regulatory rules and guidance, relevant codes of practice, and what I consider good industry practice at the time (some of which Mr K has referred to in his submissions). Monzo ought to have been monitoring accounts to counter various risks, have systems in place to identify unusual transactions, or other indicators, that its customers were at risk of fraud and, in some situations, make additional checks before processing payments, or declined them altogether, to protect its customer from possible financial harm from fraud.

It isn't in dispute that Monzo has (and had) obligations to be alert to fraud and to act in its customers best interests. So, the starting point here is whether the instructions Mr K gave to Monzo when authorising the debit card payments were unusual in relation to the typical account activity.

I agree with the investigator that the second payment was unusual and should've triggered on Monzo's systems. So, I need to consider here whether Monzo stopping the second payment and speaking to Mr K about why he was making it would've made a difference.

It's clear from the copies of e-mails Mr K has provided that he had conducted his own research into C whilst the scam was ongoing. He sent a long list of questions (after he made the payments via Monzo) where he pointed out the numerous negative reviews online about C and its methods. Mr K also referenced in his research to a website that said C had been added to a watchlist with a regulator outside of the UK. I've seen the responses from C and noted that after conducting that research (and receiving the responses) Mr K was happy to pay a further £37,500 towards this scam from another of his bank accounts.

So, I'm not satisfied that Monzo providing a generic fraud and scams warning to Mr K after he made the second payment here would've made a difference. It's clear that Mr K was under the influence of the scammers throughout the scam. Even to the point where numerous reviews and other people's issues with withdrawing money from C didn't stop Mr K from continuing to invest large sums.

I appreciate this will come as a disappointment to Mr K, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that Monzo can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 November 2022.

Mark Dobson
Ombudsman