

The complaint

Miss N complains that Monzo Bank Ltd (Monzo) won't refund the money she lost in a scam.

What happened

Miss N says that she received a call and heard a pre-recorded message saying it was HMRC and asking her to press a key to get through to someone, which Miss N did. At the time of the call Miss N was preoccupied, for reasons I'll discuss later. The caller Miss N spoke to told her that her identity had been stolen and someone had used her national insurance number to open eighteen different bank accounts. So Miss N needed to move all her money to safety and would be issued with a new national insurance number the following day. She was told her money needed to be moved to a cryptocurrency account so that her funds could be monitored, and the caller talked Miss N through how to do this. He also explained that a fraud investigation would take place.

Miss N transferred nearly all of her savings into her Monzo account and also funds from another current account with a different bank. Miss N then made the following payments from her Monzo account to the new cryptocurrency account:

Date	Time	Payment method	Amount
06/08/21	14.24	Apple Pay	£223.25
06/08/21	14.35	Apple Pay	£967.88
06/08/21	14.39	Card payment	£2,233.29
06/08/21	14.46	Card payment	£3,233.29
		Total	£5,657.71

When the payments were made Miss N could see the funds in the cryptocurrency account. Miss N was told not to tell anyone as a family member could be involved.

Miss N attempted to make a further payment but Monzo blocked her account and asked her questions about it. Miss N also talked to her sister who told her she'd fallen victim to a scam.

Miss N is unhappy that Monzo hasn't refunded her. She was also unhappy that after the scam Monzo arranged for a welfare call to take place, but she now understands why this happened.

Monzo say that Miss N didn't do enough to make sure that the caller was genuine and has not provided a refund. Monzo also said that in the circumstances it was right to arrange a welfare call. But Monzo agreed to pay compensation to Miss N for other service failings. It paid £125 in total for delays in escalating her complaint and issuing a final response letter.

Our investigation so far

The investigator who considered this complaint recommended that Monzo refund the third and fourth payments. She said the first two payments weren't so unusual that Monzo should have intervened, but the position changed when Miss N made the third payment. It was the third payment in around 15 minutes, was in a different currency, was for a higher amount

and it was made to a cryptocurrency wallet. The investigator said Monzo should have contacted Miss N about this payment and that had it done so the scam would have been uncovered. Miss N was unlikely to have been able to give a plausible explanation for the payments, did not understand how cryptocurrency worked and was in a distressed state.

Miss N responded and said she thought the second payment should also be refunded as it was for a higher amount and she'd never paid a cryptocurrency company before. Monzo also didn't agree with the investigator's findings. In summary it said:

- If Monzo isn't liable under the PSRs and the scam was an obvious one it doesn't see how its root cause can be Monzo's transaction monitoring.
- Saying a transaction should be flagged solely based on its value shows a lack of understanding of transaction monitoring and its complexities. And it's easy to identify scam payments with the benefit of hindsight.
- The investigator concluded Monzo should have provided warnings before processing the payments but there's no regulatory requirement in place in respect of card payments and the card transactions were approved using strong customer identification.

As neither party has accepted the investigator's opinion the complaint has been passed to me to consider.

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 is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And I have taken that into account when deciding what's fair and reasonable in this case.

However, taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Monzo should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- 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). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

Did Monzo act fairly and reasonably when the payments were made?

Whatever the method of payment, Monzo should have been on the lookout for unusual and out of character transactions. So I've considered Miss N's statements for the eight month period before the scam. Having done so, I'm not satisfied that the first two payments should have caused Monzo any concern and so I don't think it needed to ask her any questions about them. Both payments were for relatively low amounts. There's a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate transactions. If banks were to stop payments like the second one Miss N made, I think that too many legitimate payments would be stopped.

I'm persuaded that the situation changed when Miss N made the third payment though. By this time she had paid nearly £3,500 to the same payee. This was very unusual in itself given Miss N's previous account activity. But there were other factors that should have been red flags to Monzo, such as:

- The payments were made in a different currency
- The payments were made to a cryptocurrency wallet
- There was a pattern of payments in a short timeframe
- The payments started small and increased in size

These are common features of a scam and should reasonably have resulted in Monzo asking Miss N proportionate questions about the reason for the payments.

Monzo has referred to regulatory requirements in respect of card payments. I have set out above that taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, irrespective of the payment method, Monzo should take additional steps before processing some payments. I must also reach a decision that is fair and reasonable in all the circumstances of a complaint.

I've also considered Monzo's comment that flagging a payment based solely on its value shows a lack of understanding of the complexities of transaction monitoring. I've discussed above that I think the third payment should have been flagged for a number of reasons, not just its value. I accept that Monzo's fraud detection system didn't identify the transactions (until the fifth) as having high risk characteristics. But I need to consider whether Monzo acted fairly and reasonably in all the circumstances, whether or not its fraud detection systems identified the payments.

I've thought carefully about whether the kind of questions I believe ought fairly and reasonably to have been asked by Monzo would have made a difference in this case. Having done so, it's my belief that had Monzo asked proportionate questions and given Miss N scam warnings she wouldn't have made the payments. I appreciate that Miss N was told by the scammer not to tell anyone what was happening. So any cover story she gave Monzo involving friends and family or buying an item wouldn't be plausible as such payments aren't made using cryptocurrency. And if Miss N had used a cover story involving investing in cryptocurrency any questions about it would have revealed she had no understanding of how it worked or what she needed to do to protect herself. Of course, if Miss N told Monzo the truth the scam would have been immediately apparent.

Miss N explained to Monzo and this service that she cried a lot when she was on the phone to the scammer. Her messages to Monzo after she reported the scam showed she was extremely distressed, to the extent that Monzo organised a welfare call. In the circumstances, I consider that if Monzo had discussed the third payment with Miss N it should have picked up on her demeanour and recognised that something was wrong.

Should Miss N bear some responsibility for her loss?

I've also considered whether Miss N should bear some responsibility for her loss. I'm not persuaded that the story given to Miss N by the scammer was particularly plausible in terms of HMRC asking her to move money to a cryptocurrency account. But I need to take into account the overall circumstances of the complaint and reach a fair and reasonable outcome. Miss N has explained that she was vulnerable for a number of reasons on the day of the scam. She was pregnant and on medication to help with her mental health. In addition to this, Miss N's sister's best friend had been given days to live earlier that week. Miss N had spent time at the hospital and on the day of the scam was on her own for the first time that week. As a result of the combination of these factors Miss N has explained that her judgment was impaired.

As I said above, Miss N has explained that she was in tears when she spoke to the scammer and it's clear from her communications with Monzo after the scam that she was very distressed. Given the evidence I have seen I think that in this case it would be fair for Monzo to refund Miss N's losses in full.

Recovery

I don't believe Monzo could have done anything to recover Miss N's funds. I say this because Miss N made card payments to a legitimate cryptocurrency provider that gave the service it was meant to. In these circumstances, a chargeback claim wouldn't have been successful.

Interest

The funds sent to the scammer were transferred into Miss N's Monzo account from a savings account with a different bank. So interest should be added to the refund for the third and fourth payments at the interest rate that applied to that savings account at the time of transfer.

Customer service

I've considered the service Monzo provided to Miss N. I accept there were some delays in dealing with Miss N's complaint but Monzo has already paid reasonable compensation in respect of this. And I believe Monzo acted responsibly and reasonably in arranging a welfare call during its investigation of Miss N's complaint given the nature of the messages she sent to Monzo in its chat.

My final decision

For the reasons I have set out, my final decision is that Monzo Bank Ltd should:

- Refund the third and fourth payments Miss N made (£4,466.58)
- Pay interest on these two payments from the date of payment to the date of settlement at the rate set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 20 July 2022.

Jay Hadfield
Ombudsman