

The complaint

Miss U complains that Monzo Bank Ltd (Monzo) is refusing to refund her the amount she lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary Miss U started communicating with an individual (X) via Instagram having seen X being endorsed on a friend's Instagram account stating Miss U could see a return of £15,000 following a £2,000 investment. X confirmed Miss U could make a profit if she invested with it in Bitcoin.

Convinced by her friend's endorsement Miss U decided to make an investment and transferred funds to X via cryptocurrency exchanges as directed by X. Miss U was able to see her investment growing online.

Miss U made/attempted to make the following payments into the scam:

Date	Merchant	Amount
3 March 2022	Simplex	£1,000
3 March 2022	Simplex	£1,000 returned
3 March 2022	Moonpay	£1,000
3 March 2022	Moonpay	£1,500
4 March 2022	Moonpay	£1,000
4 March 2022	Moonpay	£1,000 returned
4 March 2022	Moonpay	£1,000
4 March 2022	Moonpay	£1,000 returned
4 March 2022	Money Swap	£1,000
4 March 2022	Money Swap	£1,250
4 March 2022	Money Swap	£1,050

It turned out Miss U's friend's Instagram account had been hacked as part of the scam so the endorsement on her friend's account was fake. When Miss U attempted to make a withdrawal from the investment and refused to pay any further funds into it, X stopped all communication with her, and she was unable to recover any of the payments she had made.

Our Investigator considered Miss U's complaint and thought it should be upheld in part. He said that by the time Miss U attempted to make a third payment into the scam, Monzo's fraud prevention systems should have been triggered and it should have stepped in to have a meaningful conversation with Miss U around the purpose of the payments she was making. He said that if Monzo had this conversation it was likely it would have uncovered the scam and prevented any further payments being made.

Our Investigator also thought Miss U had contributed to her loss so it would be fair for her to share some responsibility. He suggested Monzo pay back the loss Miss U incurred from the

third payment she attempted less 50%.

Miss U accepted our Investigators view. Monzo disagreed and said it was not responsible for any of Miss U's loss. As Monzo disagreed this complaint has been passed to me to decide.

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.

Methods of recovery

Miss U made payments into the scam via her debit card. For payments that are made by debit card Monzo's only method of recovery would be via chargeback. But Monzo was unable to process a chargeback for the payments Miss U made in relation to this scam.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Miss U was dealing with X, which was the business/person that instigated the scam. But Miss U didn't make the debit card payments to X directly, she paid separate cryptocurrency exchanges. This is important because Monzo was only able to process chargeback claims against the merchant she paid, not another party (such as X).

The service provided by the cryptocurrency exchanges would have been to convert or facilitate conversion of Miss U's payments into cryptocurrency. Therefore, they provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Miss U paid.

Should Monzo have reasonably stepped in to prevent any or all the payments?

Miss U has accepted she authorised the payments that were made from her account with Monzo, albeit on X's instruction. So, the starting point here is that Miss U is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Monzo should have been aware of the scam and stepped in to prevent the payments from being made.

Monzo has told us it has sophisticated fraud prevention systems in place to monitor and prevent potentially fraudulent activity on its customers' accounts.

I have looked at the payments Miss U made into the scam. On 3 March 2022 Miss U attempted to make three payments of £1,000 to new payees she had not previously paid using her debit card. Having looked at Miss U's previous account usage I think this activity was unusual. Miss U rarely made payments of this size using her debit card from her account, or multiple payments in the same day.

Considering the uncharacteristic activity on Miss U's account, and that Monzo should have been aware at the time of Miss U's payments the FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018. I think it would have been reasonable to expect Monzo to step in and have a meaningful conversation with Miss U about what these payments were in relation to.

Had Monzo had this conversation with Miss U I think it's likely she would have explained she was making investments in cryptocurrency after seeing information on Instagram promising high unrealistic returns, and that she was being led by X into making payments via cryptocurrency exchanges. Monzo would likely have considered this type of activity commonly associated with scams and would have been able to prevent Miss U from making any further payments.

So, I agree with our Investigator that Monzo has missed an opportunity to step in and prevent Miss M incurring any further loss from the third payment she attempted.

Contributory negligence

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, I do think it would be fair to reduce compensation on the basis that Miss U should share responsibility for what happened. Miss U was an inexperienced investor and had not previously made investments of this type before. But I think the promise of returns of £15,000 after investing just £2,000 should have caused her some concern. I also don't think it was reasonable to make such an investment after only seeing an endorsement from a friend on social media. I would have expected Miss U to have carried out more research on X before parting with her money.

So, I think it would be fair to reduce the compensation due by 50% on the basis that Miss U should share responsibility for her loss.

Putting things right

To put things right I require Monzo Bank Ltd to:

- Refund all the payments Miss U made made into the scam from the third payment attempt of £1,500 on 3 March 2022, less 50% and any refunds received. (a total of £2,400)
- Add 8% simple interest per year to the amount it pays Miss U from the time Miss U made the payments to the time Monzo Bank Ltd provides the refund (less any lawfully deductible tax).

My final decision

I uphold this complaint and require Monzo Bank Ltd to put things right as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss U to accept or reject my decision before 26 May 2023.

Terry Woodham
Ombudsman