

The complaint

Mr M complains that Monzo Bank Ltd ('Monzo') won't refund the money he lost in a scam.

What happened

Mr M says that he met a lady I'll refer to as L on a dating site. He and L then started to message each other through a messaging service and after around a month L suggested she could help Mr M invest through her uncle's trading site. Mr M was asked to set up an account with a cryptocurrency exchange I'll refer to as B and then transfer funds from his account with Monzo to his newly opened account with B. L then helped Mr M move funds to a trading platform.

I have set out below the payments Mr M made from his Monzo account:

Date	Amount
05/04/22	£20
06/04/22	£750
08/04/22	£1,000
08/04/22	£2,000
09/04/22	£1,000
09/04/22	£1,000
Total	£5,770

Mr M has provided a screen shot from the trading platform that showed a profit of over £100,000. He was then asked to pay tax of over £18,000 to receive his funds. On 22 April 2022 Mr M contacted Monzo through its in-app chat to report the scam.

Monzo hasn't agreed to provide Mr M with a refund. It says that Mr M transferred funds from Monzo to a legitimate platform (B) and his point of loss was when he moved the funds from B to the scammer. Monzo suggested that Mr M contact B. In any event, Monzo got in touch with the bank that received Mr M's funds but was advised that no funds remained.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She noted that the payments Mr M made from his Monzo account weren't so unusual that Monzo should have had any concerns about them. This was because they were relatively low in value and were to an account in Mr M's name. And Monzo had done what it could in contacting the receiving bank when the scam was reported but by this stage no funds remained in the receiving account. Finally, the investigator said that Mr M hadn't completed sufficient checks before making the payments.

Mr M wasn't happy with the investigator's view and so his complaint has been passed to me to consider. He said he was asking this service for help to recover the funds he has lost

rather than asking Monzo to pay him back. He feels that Monzo should trace his funds so that they can be recovered.

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.

It is accepted that Mr M authorised the scam payments from his Monzo account. So, although he didn't intend the money to go to the scammer, under the Payment Services Regulations 2017 and the terms and conditions of his account, Mr M is presumed liable for his loss in the first instance. And under the terms and conditions of the account, where a valid payment instruction has been received Monzo's obligation is to follow the instructions that he provides.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for a bank to take additional steps or make additional checks before processing a payment in order to help protect its customer from the possibility of financial harm from fraud. An example of this would be if a payment instruction is sufficiently unusual or uncharacteristic for the usual use of the account. In such circumstances, I'd expect Monzo to intervene and ask more questions about the intended transaction and to provide suitable warnings about common scams.

I'm not persuaded that the fact the payments were going to Mr M's own account and so appeared to be going somewhere safe and within his control means Monzo can't be held liable. It's a question of whether they were unusual and so should have caused concern. This is because by January 2019, firms like Monzo had, or ought to have had, a good enough understanding of how these scams work – including that a customer often moves money to an account in their own name before moving it on again to the scammer - to have been able to identify the risk of harm from fraud.

In this case, I'm not satisfied that the payments Mr M asked Monzo to process were so unusual or out of character that Monzo ought reasonably to have intervened. I say this because the amounts were relatively low in value and the balance of Mr M's account wasn't totally depleted. And whilst the payments initially increased in size this pattern didn't continue (as the last two payments on 9 April 2022 were for £1,000). So, the payment requests didn't follow the usual investment scam pattern. In the circumstances, I think Monzo acted reasonably in not intervening.

There's a balance to be struck; banks have obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments.

In his response to the investigator's view Mr M has suggested that Monzo knew he was making payments as part of a scam, but I don't agree. Mr M asked Monzo to transfer funds to his own account at a legitimate cryptocurrency exchange.

Recovery

Mr M's funds were sent to an account in Mr M's name with B, a genuine cryptocurrency platform and from there to the scammer. In the circumstances, there was nothing Monzo could do to recover the funds. Monzo has no way of knowing what happened to the funds after they reached Mr M's account with B and there's nothing more I would expect it to do in these circumstances.

For completeness, the Contingent Reimbursement Model Code (the CRM Code) doesn't apply in this case as Mr M made payments from his Monzo account to an account in his own name rather than to another person. The CRM Code only applies to payments made to another person.

Overall, whilst I'm sorry to hear that Mr M has lost out as a result of a cruel scam, I can't reasonably ask Monzo to refund him.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 February 2023.

Jay Hadfield
Ombudsman