

The complaint

Mr O has complained that Monzo Bank Ltd won't refund the money he lost after falling victim to a scam.

What happened

In summer 2021, Mr O was looking to invest and found some cryptocurrency websites, who offered 25% returns over four days. He felt they were genuine due to being high up on search results, having some good reviews, having professional-looking websites with live trading results and a live chat function, and because they claimed to be genuine regulated businesses. However, they turned out to be scam websites.

Mr O paid over £20,000 from his Monzo account to his crypto wallet, then on to the scammers. He realised it was a scam when they wouldn't let him withdraw his money. He reported the matter to Monzo, initially saying he didn't recognise some of the payments involved and wasn't sure which were his. He later clarified he had made the payments himself.

Monzo didn't think it was liable for Mr O's loss, primarily because he'd sent the money from Monzo to a crypto account in his own name.

Our investigator looked into things independently and upheld the complaint in part. They thought Monzo should have intervened by the time Mr O sent on £4,000 in one go, and if they'd done so the scam could've been stopped from that point on. But they also thought Mr O shared liability for the loss as he didn't carry out reasonable due diligence. They proposed that Monzo refund half of the £16,165 that was lost from the £4,000 payment onwards, plus relevant interest.

Monzo didn't agree, so the complaint's 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.

Both sides accept Mr O authorised the payments involved, even if he didn't intend for the money to go to scammers. So, under the Payment Services Regulations and the terms of his account, Mr O is liable for the loss in the first instance. But the matter does not end there.

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 that Monzo should have fairly and reasonably:

- Monitored accounts and payments to counter risks such as fraud and scams;

- Had systems in place to look out for particularly unusual transactions or other signs its customers were at risk of fraud;
- In some circumstances, taken further steps or made further checks before a payment went out, or even blocked it, to help protect customers – irrespective of the type of payment involved.

I accept that there must be a balance between responding to potentially fraudulent payments and ensuring there's minimal disruption to legitimate ones. And I accept that Monzo cannot always predict the future, as it pointed out. But in this case, I think the payments involved stand out as being remarkable, so I think they should have prompted Monzo to intervene.

By the time Mr O attempted the £4,000 payment, he'd tried to pay a very significant sum to the crypto platform that day, and an even more significant sum when factoring in his payments the two days prior. He'd made multiple payments over a relatively short period, which were quickly draining his account, to a relatively recent payee he'd only paid once before this incident, with no confirmation of payee. The recipient was a crypto site, and by 2021, the Financial Conduct Authority (FCA) and Action Fraud had published warnings about cryptocurrency scams, so Monzo should've had a good understanding of the risk of these scams and how they work. That all should have been of concern to Monzo. Indeed, I can see that Monzo's own fraud systems started triggering just after this.

So I think Monzo ought reasonably to have made person-to-person enquiries with Mr O about the £4,000 payment before it processed it. Had Monzo intervened, I think it would have most likely come to light that Mr O was sending the money for an investment. And had Monzo probed appropriately and asked reasonable questions about the investment, I think it most likely could have unravelled the scam. Given the wholly unrealistic returns promised – working out at over 2,000% pa, the scam warnings and reviews about these companies that were present by summer 2021, the lack of any proper paperwork, the fact that the websites were not regulated but claimed to be, the intelligence about crypto scams that Monzo had from the regulator and Action Fraud, and so on, I'm satisfied it ought to have identified this was likely a scam and warned Mr O or stopped further payments altogether.

I've seen no good reason to think Mr O would not have been honest about why he was spending this money – at that point, he still thought he was making genuine investments, and the scammers hadn't told him to lie if questioned. Monzo argued that Mr O lied about the payments being unauthorised when he reported the matter. Having looked at what was said, it seems like he was unsure about what he'd paid. In any case, he was completely open about the crypto investment nature of the payments. I've also seen no reason why Mr O would not have listened to Monzo – it is a well-known name in banking, he'd been with Monzo for a significant time, and he accepted he was not a very experienced investor.

Monzo argued that it could not be held liable for the transfers involved because the receiving account was in Mr O's name. First, it did not know that at the time. And per the above, even if it had identified that the account was in Mr O's name, it should have been on notice about crypto scams. Second, Monzo was still obliged to look out for potentially fraudulent payments, even if they were going to another account in the customer's name. And identifying and preventing such scam payments would still have the effect of preventing further loss to its customer. So Monzo can still be held liable for a loss that resulted from its failure to intervene – which is what I've found to have most likely been the case here.

Monzo claimed that if it was expected to prevent Mr O's payments, then it would have to block huge numbers of legitimate payments, too. However, it seems unlikely that huge numbers of its customers would regularly drain their accounts of funds via remarkably large payments to unconfirmed payees at cryptocurrency platforms, all with complete legitimacy.

Monzo argued it had kept Mr O's account safe because the payments involved were authorised. But it also has some responsibility to keep Mr O's account safe from scam payments, which are often authorised by nature, as well as a general obligation not to further financial crime.

Finally, Monzo argued that our service is not in a position to comment on which payments it should intervene with. I will note that our service has a position of objectivity which Monzo does not, and is able to see a wide range of practices, trends, and issues from across the industry, due to the wide range of cases we deal with. But ultimately, it is in fact our service which decides whether Monzo got things right or not – including whether it should have intervened or not – in individual complaints such as this one. And Monzo should be familiar with our approach by now.

So I find that Monzo bears some liability for Mr O's loss from the £4,000 payment on 12 August 2021 onwards.

I've also thought carefully about Mr O's role in what happened. I do understand Mr O's reasons for making the payments. But I'm afraid I think Mr O ought to have had some concerns along the way about what he was being told. And I can't see that he carried out reasonable due diligence before paying the scammers. For example, the returns promised were concerningly unrealistic, he said he'd been swayed by the scammers saying they were regulated but he was not a first-time crypto investor and a search of the FCA register would have shown that the sites were lying about being regulated, web searches show scam warnings and scam reviews about these websites from before Mr O's payments, Mr O had not been given any proper paperwork, the scammers refused Mr O's request to meet in person to verify things, and the scammers used poor and unprofessional grammar.

So I don't think I can hold Monzo solely responsible for Mr O's losses from the £4,000 payment onwards. I think Mr O should also bear 50% of the responsibility for those losses.

Lastly, I've considered whether Monzo should have done more to try to recover Mr O's money. But as the payments went to his own crypto account, there wasn't anything more I'd expect Monzo to do there.

Putting things right

I direct Monzo Bank Ltd to:

- Refund 50% of the scam payments from the £4,000 payment on 12 August 2021 onwards. Those payments total £16,165, 50% of which is £8,082.50.
- For amounts funded from Mr O's savings account: pay interest at the account rate from the date each amount debited until the date it's returned.

- For amounts funded from Mr O's current account: add simple interest onto the refunded amounts at the rate of 8% simple per year, payable from the date each amount debited until the date it's returned.
- If Monzo considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from that 8% simple interest, it should tell Mr O how much tax it's taken off. It should also give Mr O a tax deduction certificate if he asks for one. Mr O may be able to reclaim the tax from HMRC if he doesn't normally pay tax.

My final decision

For the reasons I've explained, I uphold Mr O's complaint in part, and direct Monzo Bank Ltd to put things right by doing what I've said above.

If Mr O accepts my final decision, Monzo Bank Limited must pay the compensation within 28 days of the date on which we notify it of the acceptance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 14 August 2023.

Adam Charles
Ombudsman