

The complaint

Ms C complains that Monzo Bank Ltd (Monzo) won't refund the money she lost when she fell victim to a scam.

What happened

The details of this complaint are well known to both parties. So rather than repeat them all again here, I'll briefly summarise the key points.

Ms C saw an Instagram account she follows posting about their trading account. They included an American telephone number to contact to *'get involved with investing and trading'* – which she did. After some discussion on WhatsApp, Ms C set up a trading account with the merchant. Unfortunately, it was a scam.

Ms C made payments from her Monzo account to purchase cryptocurrency, which she sent on to the scammers – thinking it was going to a genuine trading account in her name. She initially did this via a MoonPay account she set up. She attempted five payments in one day – but MoonPay returned the last two payments.

Following this, Ms C made two payments to an existing cryptocurrency account she held but was unable to send these on to the scammer. She was then directed to set up a different cryptocurrency account and made three more payments that day, followed by two more the next day. In total, she sent over £8,000.

The scammers kept telling Ms C to send more funds for various reasons, such as taxation, commission and to purchase withdrawal codes. When this continued, she realised it was a scam. She now thinks the Instagram account she follows was hacked.

Ms C contacted Monzo about the scam, but it didn't agree to refund her. It said she had authorised the payments and hadn't shown enough care to verify who she was paying. And it couldn't recover the funds through the chargeback scheme (or consider a claim under the Contingent Reimbursement Model code) because the funds went directly to accounts Ms C held with genuine cryptocurrency merchants before being transferred on.

Unhappy with this response, Ms C referred her complaint to our service. She said Monzo should have identified the payments as suspicious and questioned her, at which point it would have become apparent that she was falling victim to a scam.

Our investigator thought, although Ms C had authorised the payments, Monzo ought to have been concerned by the time of the fifth payment. And that if it had responded appropriately, it would have unravelled the scam and prevented further loss. But she also thought Ms C had been negligent. She recommended that Monzo should refund 50% of the loss from payment five onwards.

Ms C accepted this, but Monzo disagreed. It said she had made prior cryptocurrency payments, so the scam payments didn't seem unusual. And it's not uncommon for customers to make a number of payments for investment purposes, including multiple payments to different wallets. It also disputed that intervention would have uncovered the scam, given the warning signs Ms C overlooked – including a warning on the 'trading platform' website to only make payments to the company account.

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 agree with the conclusions reached by the investigator for the following reasons:

In line with the Payment Services Regulations in force at the time, Monzo is expected to execute authorised payment instructions without undue delay. It's not in dispute that Ms C was scammed. But nor is it in dispute that she authorised the payments. So the starting position is that she's liable for them.

But there are some situations where we believe that banks—taking into account relevant rules, codes and best practice—ought to have identified a fraud risk, so should have looked at the wider circumstances surrounding the transaction before making the payment.

Ms C had only made a very low-level cryptocurrency payment from her Monzo account prior to this scam; the scam payments were significantly higher. She didn't have an existing MoonPay account, so this was a new payee. Looking at her account history, I find it does look unusual that she then made (or attempted) five payments to this new payee in one day – including higher-level payments, such as one for almost £2,000.

By the time Ms C had made her fifth payment to this new, cryptocurrency payee, totalling over £3,500, I think Monzo ought to have been concerned that she might be at risk from fraud. I consider that it would have been proportionate to have spoken to her directly about what she was doing.

Although the funds didn't go direct to the scammer, that's common in scams like this. As Ms C did here, victims often need to transfer funds through another account to purchase cryptocurrency for their 'investment'. This is something Monzo ought to have been aware of – so it would have been appropriate to question Ms C about the overall circumstances of the payments. Such as how she came to make them, whether any other parties were involved, and what she was ultimately doing with the funds.

If Monzo had appropriately questioned Ms C, I think she would have explained she was acting on the instructions of a third party she'd seen advertised on social media, who had directed her to set up various cryptocurrency wallets to transfer funds onto their platform. And the payments she had made by that point included a payment for a 'transfer code' to withdraw funds, as well as payments 'due to MoonPay deducting commission'.

I think Monzo ought to have realised and warned Ms C that it sounded like a scam. And I think she would have heeded this warning from her bank, speaking from a position of knowledge about how these scams work. Although this wasn't her first time buying cryptocurrency, she wasn't an experienced investor and she hadn't done lots of research into the merchant. So I think she would have been open to relying on what Monzo told her.

Monzo disagrees that Ms C would have heeded a warning given the other warning signs she overlooked. But it's not clear whether Ms C would have seen the warning Monzo has mentioned from the scammer's website. Even if she had, I don't think it would have seemed relevant as she was sending her funds to the account details provided by the merchant.

By contrast, a warning from her bank – as an external, trusted party – that it sounded like a scam would have given her reason to question what the merchant was telling. And I think this would have been *more* impactful given that there were existing reasons why she should have had concerns.

If Monzo had intervened appropriately, it would likely have been on actual notice that Ms C would suffer financial harm from fraud. As this loss ought to have been in the contemplation of and foreseeable to Monzo, I consider it fair and reasonable to hold it liable for the loss.

I've also considered if Ms C should bear some responsibility for this loss by way of contributory negligence. She doesn't seem to have done much to verify who she was dealing with, despite paying them a lot of money. And I think the explanations they gave for the payments should have given her concern. For example, she paid them for a code to make a withdrawal – but this didn't work. Despite that, she went on to make seven further payments.

In the circumstances, I consider it fair to deduct 50% from the redress to reflect the role Ms C played in her losses.

Putting things right

Monzo Bank Ltd should refund half of the money Ms C lost to the scam from the fifth (attempted) payment onwards. It should pay interest on this amount from the dates of payment to the date of settlement. As the payments were funded by transfers from Ms C's savings account to her Monzo account, the interest should be applied at the rate of the originating savings account.

My final decision

For the reasons given, I uphold this complaint and direct Monzo Bank Ltd to put things right in line with what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 18 April 2023.

Rachel Loughlin
Ombudsman