

The complaint

Mr U complains that Monzo Bank Ltd won't refund money he lost when he was the victim of a scam.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In early 2022 Mr U was the victim of a Forex investment scam. He made various international payments from his Monzo bank account to the scammer via another firm that specialises in currency exchange and international payments:

Date (time)	Type	Amount
9 March 2022 (2:51pm)	Faster payment	£385
9 March 2022 (8:55pm)	Faster payment	£1,172.80
17 March 2022	Faster payment	£1,531.61
25 March 2022	Faster payment	£2,825.85
31 March 2022	Faster payment	£1,914.93
8 April 2022	Faster payment	£6,448
	Total:	£14,278.19

Mr U became aware he'd been scammed when he had difficulty withdrawing the funds and reported it to Monzo in May 2022. Monzo said they were unable to refund the money as it didn't qualify due to the payments being sent internationally. They also told Mr U no money remained in the account with the receiving bank— so it couldn't be returned.

Mr U complained to Monzo but their decision didn't change. They reiterated they can only look into refunding transfers sent to a UK account and, as these payments were sent internationally, they don't qualify for a refund.

The complaint was referred to the Financial Ombudsman and our investigator thought it should be upheld in part. She said, although the payments were higher than what Mr U typically made on his account, she didn't think it was unreasonable for Monzo not to have intervened until the final payment (which was significantly higher). Our investigator thought the final payment was sufficiently unusual and so, it ought to have prompted Monzo to have spoken with Mr U about it before processing it. Had they done so, asking appropriate questions about the nature of the investment opportunity, they would've become aware Mr U came across it via a dating app. So, she thought the scam would've been identified and the final payment prevented from being sent. Because of this, our investigator recommended Monzo refund £6,448 and add 8% simple interest.

Although Mr U hoped for the full refund of his money, he accepted our investigator's recommendation.

Monzo however disagreed and so the matter has been passed to me to decide. In short, they said:

- The payment wasn't flagged as unusual and customers are allowed to make irregular payments and use their account as they wish.
- As the options available to consumers and business grow, they must balance what is reasonable to allow with large payments. And they cannot flag every irregular payment as this creates blockers for customers with day-to-day spending.
- They have internal processes in place to identify genuinely risky payments from the mass of irregular payments – those that do flag are reviewed appropriately. The system they use is sufficient and in line with regulation.
- It's for them to decide how they choose to configure their detection systems – striking the balance between allowing their customers to transact business and question transactions to confirm they're legitimate.
- The payments aren't covered under the Contingent Reimbursement Model (CRM).
- They sympathise with Mr U's situation but had he contacted them about the payment or read literature they have online then they could've supported him appropriately.

Before I go on to explain the reasons for my decision, I'd like to clarify that I'm only looking at the scam payments made from Mr U's Monzo bank account. Mr U is aware that other cryptocurrency payments he made to the scammer won't be considered as part of my decision – so I won't be commenting on them here.

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.

I'm sorry that Mr U has been the victim of a scam and the impact this has had on him. I know Mr U was hoping for the full sum he lost to be refunded but, after giving this matter careful consideration, I've reached the same outcome as our investigator for similar reasons. I'll explain why.

I've thought about the CRM code which can offer a potential means of obtaining a refund following Authorised Push Payment (APP) scams. But the CRM Code only applies to payments made between two accounts held in the UK – and both accounts must be denominated in pounds sterling. This means, as Mr U's payments were sent internationally, they're not covered under the CRM code. I've therefore considered whether Monzo should reimburse Mr U under any of their other obligations.

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that their customer authorises them to make. Here, it isn't disputed that Mr U knowingly made the payments from his Monzo account. I appreciate Mr U was tricked by the scammer as he thought it was a genuine investment opportunity. Nevertheless, I'm satisfied the payments were authorised by Mr U. So, under the Payment Services Regulations 2017 and the terms of his account, Monzo are expected to process the payments and Mr U is presumed liable for the loss in the first instance.

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 Monzo to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Mr U to Monzo (either individually or collectively) were unusual in relation to his typical account activity.

Having looked at Mr U's account usage before the scam occurred, it was typically used for low value day to day spending – transactions below £100. So, the payments Mr U made to the scammer were greater than how he typically used his account. But, as Monzo has pointed out, it isn't unusual for people to make less frequent payments from time to time for one off expenses. And so, I understand Monzo's argument around them finding the balance between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate.

At which point, I'd like to clarify that I'm not telling Monzo how to operate in respect of their wider detection systems. I'm also not saying that Monzo is expected to flag every irregular payment. Instead, I'm only looking at Mr U's specific circumstances here and whether I consider the payments were of such an unusual nature – based on typical account usage – that it ought to have prompted Monzo to consider whether he was at risk of financial harm from fraud.

I've thought carefully about this and I don't think the first five payments were so unusual or out of character that I'd have expected Monzo to have intervened at the time. The payments weren't in quick succession and, except for the first payment which was of a low value, they were of a similar amount (between £1,000 and £3,000). But I think the final payment ought to have been considered by Monzo as unusual and out of character based on Mr U's typical account activity. This is because the payment amount was significantly higher, more than double what he'd previously sent. The amounts had gradually increased over time (which can be an indicator of investment scams). And when Monzo processed this payment unchallenged, it took the series of payments to over £14,000, being sent internationally, to a relatively new payee, in the space of one month.

I therefore think Monzo ought to have held this payment and contacted Mr U. Had Monzo done so, I think it's likely Mr U would've explained the purpose of the transfer – that being for Forex investment. At which point, given Monzo have a greater understanding of the risk of scams of this type, it would've been reasonable to expect Monzo to have questioned Mr U about this, such as how he came across this opportunity. If this happened, I think Mr U would've explained how the investment opportunity arose through a recommendation from a person he was messaging on a dating app.

This would've been a red flag and so I think, at this point, Monzo ought to have highlighted to Mr U that there was a significant risk of it being a scam. Monzo could've also advised Mr U to carry out further research on the firm and questioned why he wasn't using one that was based in the UK (which provided the regulatory protection for firms authorised by the Financial Conduct Authority).

I've also thought about whether Mr U did enough to protect himself from the scam. Mr U has said that, prior to make the payments, he researched the company and it appeared ok. I've also considered that, in the early stages of the investment scam, Mr U tested the withdrawal process and requested \$100. Although there was an issue with the fund withdrawal, he did receive it as cryptocurrency payment. So, I think it's understandable Mr U was reassured by receiving the cryptocurrency withdrawal – thereby prompting him to invest further. Had Mr U received the scam warning or advice from Monzo though, then I think this would've most likely prompted him to have attempted a more meaningful withdrawal before proceeding with further payments (including the final one he made). At which point, Mr U would've run into the same problems he eventually did when the scam came to light.

Because of this, I think – had Monzo intervened – Mr U wouldn't have sent the final payment. And after taking everything into consideration, although I think Mr U could've potentially carried out further checks, I don't think he was grossly negligent or negligent to an extent that it would be fair and reasonable to reduce the award based on contributory negligence in the circumstances of this complaint.

It follows that, to put things right, I think Monzo should refund the £6,448 payment. And, as the funds Mr U sent to the scammer came from a personal current account he held with a different banking provider, I think 8% simple interest should be applied for the loss of use of money during this time.

My final decision

My final decision is that I uphold this complaint in part. I direct Monzo Bank Ltd to:

- Refund the £6,448 payment.
- Pay 8% simple interest calculated from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 2 January 2023.

Daniel O'Dell
Ombudsman