

The complaint

Ms K complains that Monzo Bank Ltd (Monzo) has refused to refund the money she has lost following her falling victim to 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 Ms K was contacted via social media by an individual I will call X. X provided Ms K with information about a potential investment opportunity in Bitcoin. X was very persuasive, and Ms K could see her other contacts on the social media platform had supported X's claims. One of Ms K's trusted contacts had even uploaded a video in support of the investment offered by X.

Ms K was advised she would have to make payments into the investment via the cryptocurrency exchange Moonpay. It's not clear how X was able to control Ms K's Moonpay account but once the funds were transferred to the Moonpay account by Ms K, X took control and made payments from her Moonpay account to what turned out to be a fake investment.

Ms K made the following payments to Moonpay:

Date	Payee	Amount	Payment Method
3 April 2022	Moonpay	£2,000.00	Transfer
3 April 2022	Moonpay	£3,500.00	Transfer
4 April 2022	Moonpay	£4,881.04	Transfer
4 April 2022	Moonpay	£2,500.00	Transfer
6 April 2022	Moonpay	£299.00	Transfer
6 April 2022	Moonpay	£2,510.00	Debit Card

Ms K has told us that X disappeared before she had the chance to make a withdrawal from the investment and she has been unable to recover any of the payments she made.

Our Investigator considered Ms K's complaint and thought it should be upheld in part. Ms K and Monzo both disagreed so 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.

It has not been disputed that Ms K has fallen victim to a cruel scam. The evidence provided by both Ms K and Monzo sets out what happened clearly. What is in dispute is whether Monzo should refund the funds Ms K lost due to the scam.

Recovering the payments Ms K made

Ms K made payments into the scam via the methods of transfer and card payment.

For the payments Ms K made by transfer I have considered if Ms K should have received a refund under the Contingent Reimbursement Model (CRM) code. But the CRM code only applies when domestic payments (as the result of a scam) are sent to another person. Here Ms K sent the payments to an account held in her own name with Moonpay, and the scam occurred when the purchased crypto was sent from that account to the scammer. I'm satisfied the CRM code wouldn't apply in this scenario.

Monzo was unable to process a chargeback for the card payment Ms K made in relation to this scam to Moonpay.

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.

Ms K was dealing with the scammer, which was the person that instigated the scam. But Ms K didn't make the debit card payment to the scammer directly, she paid a separate cryptocurrency exchange (Moonpay). This is important because Monzo was only able to process chargeback claims against the merchant she paid (Moonpay), not another party.

The service provided by Moonpay would have been to convert or facilitate conversion of Ms K's payment into cryptocurrency. Therefore, Moonpay 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 merchant Ms K paid. As Moonpay provided the requested service to Ms K any chargeback attempt would likely fail.

So, I am satisfied Monzo was unable to recover the payments Ms K made to Moonpay.

Should Monzo have reasonably prevented the payments Ms K made?

Ms K 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 Ms K 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.

The first two payments Ms K made in relation to the scam to Moonpay were to a new payee, but I don't think it would be reasonable for me to say Monzo should step in every time one of its customers pays a new business, especially when the business appears to be legitimate. The individual payments were also below an amount I would expect to trigger Monzo's fraud prevention systems. So, I don't think it was unreasonable that the first two payments Ms K made didn't trigger Monzo's fraud prevention systems and that it didn't step in to speak to Ms K about the payments.

On the 4th April 2022 Ms K made a further two payments into the scam of £4,881.04 and £2,500. While individually I do not consider these payments to be of a significantly high value, by the time the second payment was made Ms K had sent a total of over £5,000 to a new payee in the same day and paid a total amount of almost £13,000 in just two days. With the above in mind, I think Monzo should have stepped in when Ms K made the fourth payment into the scam of £2,000 and questioned Ms K about the payments she was making.

Had Monzo stepped in and had this conversation with Ms K I think it is likely Monzo would have uncovered a scam was taking place and been able to prevent Ms K incurring any further loss. Afterall, Monzo would have been aware of similar scams taking place around the same time. Monzo is therefore responsible for Ms K's loss that occurred from the fourth payment onwards.

Did Ms K contribute to her loss?

While this was a sophisticated scam and Ms K was convinced it was a genuine investment, I still think Ms K should share the responsibility for her loss (50% of the payments made after the third payment into the scam). I say this because before Ms K made the payments into the scam a warning was presented stating:

“Watch out for scams and fraudsters. Make sure that only you control the above wallet. If you did not set it up yourself, or have been given a wallet address to enter, you are likely being scammed. If you are being guided by a third party, or if someone else has access to your device, you are likely being scammed... Learn more about scammers red flags here.’

So even though X presented convincingly I think Ms K should have taken notice of the above warning and had she done so I think she could have potentially prevented the loss too.

Putting things right

I've explained why I think, if Monzo Bank Ltd had done what it reasonably ought to have done, Ms K would not have lost as much to this scam as she did.

Monzo Bank Ltd should therefore refund the payments Ms K made into the scam after the third payment (less 50%).

To compensate Ms K for having been deprived of this money, Monzo Bank Ltd should also pay Ms K interest on the loss.

As the funds came from a saving account, Monzo Bank Ltd should pay interest at the saving account rate of 2% gross (2.02% AER).

My final decision

I uphold this complaint and require Monzo Bank Ltd to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 24 July 2023.

Terry Woodham
Ombudsman