

The complaint

Mr P says Monzo Bank Ltd (“Monzo”), didn’t do enough to help when he fell victim to a cryptocurrency investment scam. He says Monzo should reimburse him for the money he lost.

What happened

The details of this case have been clearly set out by our Investigator. As such, the facts are well-known to both parties, so I don’t need to repeat them at length here.

In summary, Mr P fell victim to a crypto-investment scam.

Mr P made the following payments:

Date	Type of transaction	Amount
27 September 2021	Card payment to cryptocurrency account	‑£100
30 September 2021	Card payment to cryptocurrency account	‑£2,120
4 October 2021	Received payments	+£29.91
4 October 2021	Faster Payment to cryptocurrency account	‑£10
4 October 2021	Faster Payment to cryptocurrency account	‑£5,000
5 October 2021	Faster Payment to cryptocurrency account	‑£5,000
11 October 2021	Faster Payment to cryptocurrency account	‑£10,000
12 October 2021	Faster Payment to cryptocurrency account	‑£5,600
27 October 2021	Faster Payment to cryptocurrency account	‑£10,000
28 October 2021	Faster Payment to cryptocurrency account	‑£4,442.61
28 October 2021	Faster Payment to cryptocurrency account	‑£5,500
29 October 2021	Faster Payment to cryptocurrency account	‑£6,000
16 November 2021	Recovered funds returned	+£272.68
	Total loss (taking into account ‘returns’ received and recovered funds)	£53,470.02

Mr P had been interested in cryptocurrency investing for some time and, in September 2021, while searching the internet spotted an investment company, whom I’ll call “Company C”, that Mr P said looked legitimate and professional.

Mr P logged his interest and towards the end of September he received contact from someone purporting to work for the company. Unbeknown to Mr P at the time, he was in fact liaising with scammers.

Mr P has explained that the scammers sounded professional and discussed details of investing and how things worked and also explained that the company took commission based on the profits made. He has said he conducted some reviews and found positive comments online and believing everything to be legitimate decided to invest.

Mr P says that he was required to provide photo identification and proof of address also as part of the supposed company's due diligence for Anti-Money Laundering regulations – which he says at the time reassured him the company was legitimate.

Under the advice of the scammers, Mr P set up a cryptocurrency account to enable payments to be made into it, and then from there he could make payments in cryptocurrency to Company C to enable them to trade on his behalf.

On 27 September 2021, Mr P initially invested a small amount of around £100 – making the payment to his cryptocurrency account via his Monzo card and then on to Company C.

Mr P then made another payment via card on 30 September for £2,120 to his cryptocurrency account and on to Company C. He was subsequently shown that he had made good returns and also received around £30 back – with Mr P being satisfied with the withdrawal process.

Believing things were going well, Mr P was convinced by the scammer to invest more. And he went ahead and made further payments totalling £25,610 between the 4 October 2021 and 12 October 2021.

Mr P was led to believe that his account balance was at around \$90,000. He initially wanted to withdraw around £25,000 but was advised that he could withdraw the full amount and trade again at a later point. Mr P was told he needed to pay tax fees on his profit which came to £14,442.61 which he paid over two payments. Believing that his capital and profits were being released and paid into his cryptocurrency account, Mr P was then contacted by the scammers – who purported to be from his cryptocurrency account provider and Mr P was led to believe that there was a further fee – which he made over two payments.

Mr P never received any funds into his cryptocurrency account and was unable to contact Company C. Mr P realised he had been the victim of a scam and reported the matter to Action Fraud and also to Monzo. Ultimately Monzo didn't consider it was liable for the losses Mr P incurred.

Unhappy, Mr P brought his complaint to our service and one of our Investigators looked into his complaint. Broadly summarised, she considered while Mr P had 'authorised' the transfers (albeit while being tricked); Monzo should have systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud or financial harm.

Our Investigator, when looking at the payments Mr P made, considered the initial payments weren't remarkable. So she thought it wasn't unreasonable for these not to flag as suspicious to Monzo. But she thought the transfer of £5,000 on 4 October 2021, should have flagged. She said this because it was a large amount and was more than Mr P had transferred previously.

Our Investigator thought Monzo should have intervened on this payment to satisfy itself that its customer wasn't at risk of financial harm, and it should have contacted Mr P about it. It was our Investigator's view that, had it done so, it was more likely than not the scam would've unravelled, and the loss would've been prevented.

Our Investigator therefore thought the complaint should be upheld in part. She recommended Monzo refund Mr P for the monies lost from that point – less any sums recovered. She also recommended Monzo pay additional interest on that amount at the savings account rate where the funds had originally come from. Our Investigator considered this would fairly place Mr P back in the position as far as is possible had things not gone wrong. Our Investigator advised that the savings account rate should be applied from the date of each transaction until the date of settlement.

Mr P accepted the Investigator's findings, but Monzo disagreed.

In short, it considered it shouldn't be liable for Mr P's losses. It considered while Mr P account saw an increase in amounts leaving his account for crypto purchases this was a pattern that would follow for anyone trading for the first time so didn't consider this was an unusual activity and that it would not be viable for all new crypto traders to be investigated. It also considered there was no way of knowing what the outcome of any intervention it had would be and had Mr P's account or transfers been frozen then there was a chance Mr P would have been coached on what to say in order for the payments to be released. Monzo also considered that the scam wasn't sophisticated in nature and Mr P didn't carry out enough due diligence considering the size of the investments he was making.

Our Investigator responded to Monzo's points, reiterating that she considered Monzo ought to have intervened when Mr P made a payment of £5,000 as it was unusual for his account. She also remained of the opinion that there was no indication that Mr P had been coached by the scammers and even if he had, Monzo were the experts here, and could have identified the pattern and are aware of the common feature of a crypto investment scam. Our Investigator also set out that Mr P had been duped by a legitimate looking company and website – and didn't consider that any reduction for contributory negligence was applicable in Mr P's case. So our Investigator remained of the opinion that the complaint should be upheld.

Monzo responded, advising it had no reason to stop and suspect the payments as they were going to an account in the consumer's control. And if it stopped every payment made towards crypto it would be stopping an unreasonable number of payments causing inconvenience to its customers. It advised that it has systems in place to monitor transactions that are suspicious. And that if it stopped every single payment that was above the usual value of an account it would be stopping a high number of payments. It also considered that the payments were not made within a short space of time and were made over a month. It finally added that with any investment there is an element of risk and Mr P believing he was to make a significant amount of profit and not a loss was a red flag, explaining that while it was the specialist Mr P should have been aware that investments do not guarantee profits.

As Monzo disagreed and as the matter hasn't been resolved, the case 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.

Having done so I am upholding this complaint in part. I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

It is the case that Mr P authorised all the transfers in dispute and that's accepted by all parties. And under the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr P is responsible for them. That remains the case even though Mr P was the unfortunate victim of a scam.

However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Monzo should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

Taking the above into consideration, in this case, I need to decide whether Monzo acted fairly and reasonably in its dealings with Mr P when he made the transfers or whether it should have done more than it did.

Did Monzo act fairly and reasonably in this case?

As I've explained, I consider that as a matter of good practice Monzo should have been on the lookout for unusual and out of character transactions or signs that might indicate that its customer was at risk of fraud. And this includes looking for suspicious activity or patterns of activity that may indicate to it that its customer could be at risk.

Here, Monzo didn't taken any additional steps or make and additional checks before processing any of the payments Mr P made. Having carefully reviewed this aspect, when I consider the account usage, I agree with our Investigator, I don't think Monzo ought to have necessarily identified Mr P was at risk of financial harm when he made the initial payments. He made a payment via card for £100 and then three days later another card payment for just over £2,000. I don't think the amounts of these payments were so remarkable that Monzo ought to have identified that Mr P was at potential risk.

But I do think Monzo could have identified that Mr P was potentially at risk when he made the transfer of £5,000. From looking at Mr P's account activity, this transfer was considerably more than he had transferred in the 12 months before – so was unusual for his account. And there was a difference in how the account was now being typically used when Mr P made this transfer. And arguably a pattern was building that was identifiable and should have reasonably caused Monzo to be concerned that its customer may be at risk of financial harm.

So I think Monzo ought to have intervened when Mr P made the transfer of £5,000 on 4 October 2021.

In reaching this finding, I have also taken on board Monzo's submissions around this point. Monzo argues that because the payments were going into an account that was in the consumer's control it had no reason to stop and suspect the payments. And that it can't feasibly stop every payment going towards cryptocurrency.

Monzo are fully aware of the types of scams, so what they look like and what they involve such as the payment journeys that they can take. So, even though Mr P was transferring funds to an account (crypto account) in his name, Monzo ought to have been on the lookout for unusual and out of character transactions – which in this case I consider Mr P's payment of £5,000 was. And while the transfers were made to his own cryptocurrency account, scams involving transfers to cryptocurrency accounts were well known to banks by this time. And where payments were also out of character, I'm persuaded potential losses were foreseeable to Monzo.

Had Monzo stopped the £5,000 payment for further questioning or additional checks as I think it ought to have done, I think it would have been apparent to Monzo that Mr P was falling victim to a scam.

Monzo are the experts here and have the knowledge of how cryptocurrency scams look and feel. Had it provided Mr P with examples of these types of scams and brought them to life, I think it would have resonated with Mr P. Mr P had found the company on the internet and left his details and been called back. At the time of making the £5,000 transfer he had invested a small sum and received a small amount back and was then being asked to invest more while being shown trading platforms that showed he was making good profits. These are the common hallmarks of these types of scams that Monzo are familiar with.

So I think had Monzo pointed out some of the hallmarks of these types of scams and that it was more likely than not a scam and explained what checks Mr P could take to verify things, the loss could have been prevented.

I note that Monzo argues that there is no way of knowing what the outcome of any intervention would be and had Mr P's account or transfers been frozen then there was a chance Mr P would have been coached on what to say in order for the payments to be released. However, I am satisfied there is nothing to indicate that Mr P had been coached. So, quite simply, had Monzo explained the common features of the scam it is more likely than not that it would have struck a chord with Mr P.

Overall, I am satisfied that Monzo could have prevented the losses Mr P incurred when he made the transfer of £5,000 on 4 October 2021 and his subsequent losses.

Should Mr P bear some responsibility for his losses?

In reaching my conclusions about what is fair and reasonable in this case, I have also considered whether Mr P should bear some responsibility for his losses also. In the circumstances of this case I don't think he should, and I'll explain why.

Mr P wasn't aware of cryptocurrency scams and how they work, and I can see why at the time he thought things seemed ok. Mr P was simply the victim of a cruel scam. I am satisfied he believed he was liaising with a genuine company at the time. Mr P was cruelly duped into believing his crypto investment had gone well – and that he was then required to pay some fees in order to withdraw his capital and profit.

I'm satisfied Mr P didn't foresee the risk of this sort of harm and was not partly to blame for what happened, when also considering the absence of any additional checks or warnings from Monzo. So, on the particular facts of this individual case, I don't consider it fair to reduce compensation for some of the loss due to any blameworthy acts or omissions by Mr P.

Recovery of the funds

I am satisfied that Monzo took the necessary steps required of it in seeking to try and recover any funds, once notified of the scam. Unfortunately only a small amount was recovered and returned to Mr P.

Summary

Overall, I consider when Mr P made the transfer for £5,000 on 4 October 2021, Monzo could have done more to prevent Mr P from the risk of financial harm. Had it done so and had Monzo carried out some additional checks or asked some questions to challenge the purpose of the transfer and brought to life the type of scam Mr P was at potential risk of falling victim to, I'm persuaded it is more likely than not the scam would have come to light, and Mr P's losses could have been prevented from this point.

Putting things right

For the reasons given above, I uphold, in part, Mr P's complaint against Monzo Bank Ltd.

I direct Monzo Bank Ltd to:

- Refund the monies lost to the scam from the transfer of £5,000 made on 4 October 2021 onwards, less any sums recovered. So, £51,269.93.
- Pay additional interest on that amount at the account rate the funds originated from. This should be calculated from the date of each loss until the date of settlement.

**If Monzo Bank Ltd deducts tax from this part of the award it should provide a tax deduction certificate to Mr P so he can reclaim the amount from HMRC if eligible to do so.*

My final decision

My final decision is that I uphold this complaint in part, and I require Monzo Bank Ltd to put things right as I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 7 July 2023.

Matthew Horner
Ombudsman