

The complaint

Mr I complains that his bank Monzo Bank Ltd (“Monzo”) has refused to refund the money he has lost following him 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, Mr I was interested in investing and after carrying out an online search he found the business Crypto.io (X). Mr I made further checks online and found X had positive online reviews. So, Mr I decided to fill in his details on an online contact form.

Mr I was then contacted by X and as it seemed legitimate decided to set up an account. The process of setting up the account included sending identification documents which Mr I said made the process appear professional.

Once the account with X was opened Mr I started to make payments to it. The first payments were for low amounts that Mr I made from different bank accounts. But soon after X explained Mr I would need to open an account with Foris Dax (F) – a crypto asset provider - to continue investing.

X asked Mr I to download the screen sharing application ‘AnyDesk’ so that it could help him open his account, which he did.

Mr I was able to see the funds he was depositing on the platform X had given him login details for. At first Mr I could see he was making a profit but soon after Mr I’s investments started to lose money and X persuaded him to make further payments to help improve his position.

When Mr I decided he would make no further payments X tried to convince him again, but when he refused X ceased all communication with him, and Mr I has not been able to recover any of the payments he made.

Mr I made the following payments following instructions from X:

1. 9 September 2021 - £355 - Convertency.eu - debit card
2. 9 September 2021 - £5,000 - Foris Dax - faster payment
3. 14 September 2021 - £9,990 - Foris Dax - faster payment
4. 15 September 2021 - £9,990 - Foris Dax - faster payment
5. 17 September 2021 - £2,000 - Foris Dax - faster payment
6. 20 September 2021 - £9,990 - Foris Dax - faster payment
7. 21 September 2021 - £7,510 - Foris Dax - faster payment
8. 24 September 2021 - £7,000 - Foris Dax - faster payment

A total of £51,835 was lost to the scam.

Our Investigator considered Mr I's complaint and thought it should be upheld. She thought that Monzo should have stopped the third payment and had a meaningful conversation with Mr I about what the payments were for. She said that if Monzo had this conversation with Mr I it's likely that the scam would have been uncovered and Mr I would not have incurred any further losses.

Monzo disagreed and didn't think it should be held responsible for any of Mr I's loss, 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.

The circumstances of this complaint are not in dispute and the evidence provided by both Mr I and Monzo set out what happened well. What is in dispute is whether Monzo should refund any of the money Mr I has lost because of this scam.

Monzo was unable to process a chargeback for the payment Mr I made in relation to this scam to F via debit card.

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.

Mr I was dealing with X, which was the business that instigated the scam. But Mr I didn't make the debit card payment to X directly, he paid a separate cryptocurrency exchange (F). This is important because Monzo was only able to process chargeback claims against the merchant he paid (F), not another party (such as X).

The service provided by F would have been to convert or facilitate conversion of Mr I's payments into cryptocurrency. Therefore, F provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to X – doesn't give rise to a valid chargeback claim against the merchant Mr I paid. As F provided the requested service to Mr I any chargeback attempt would likely fail.

The subsequent payments in dispute were made by way of Faster Payment. So I've thought about whether Monzo could have recovered these payments following Mr I notifying it that he'd fallen victim to a scam.

The payments Mr I made from his Monzo account by transfer were also unable to be refunded in accordance with the Contingent Reimbursement Model (CRM) because the CRM code does not apply to payments made to and from accounts in the same person's name, as was the case in this scenario. The account Mr I was sending the faster payments to was an account in his name at Foris Dax.

As I'm satisfied none of the payments in dispute could have been recovered by Monzo, I'll now consider whether it could have prevented some or all of them.

Mr I has accepted he authorised the payments that were made from his account with Monzo, albeit on X's instruction. So, the starting point here is that Mr I 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.

I have looked at the payments Mr I made in relation to the scam. The first payment was relatively low at £355. The amount was consistent with other payments Mr I had previously made on his debit card, and he was making the payment to a legitimate business. So, I think it's reasonable that this payment did not trigger Monzo's fraud prevention systems, and that Monzo didn't step in to stop the payment.

The second payment Mr I made in relation to this scam from his Monzo account was made by the method of transfer. The amount of this payment was £5,000. Mr I had previously made similar sized payments from his account so I don't think this payment would necessarily have triggered Monzo's fraud prevention systems either. So, I wouldn't necessarily have expected Monzo to step in and prevent the payment being made.

Monzo has explained that at the time Mr I was making the £5,000 payment he was required to set up a new payee and was given a warning that should have alerted him to a scam taking place.

I have looked at the warning Monzo has relied on.

Initially Mr I would have seen a screen that asked him what the payment he was making was for. Monzo has told us that Mr I clicked on the option "*Investment*".

Mr I would then have been presented with a second screen stating warning him that the payment was likely a scam. it also stated:

*" X - Legitimate investments will never guarantee profit
X - Legitimate investments aren't arranged over social media or things like WhatsApp"*

Mr I chose to complete the transfer after seeing these screen.

I don't think the screens Mr I was presented with were meaningful enough to prevent Mr I from continuing with this payment as they didn't provide enough information to cover the scam Mr I was experiencing and warn him against it.

The third payment Mr I made from his Monzo account was for a larger amount of £9,990 to a relatively new payee set up on his account just five days earlier. I think it would have been reasonable to expect Monzo's fraud prevention systems to have been triggered by this payment and for Monzo to have had a meaningful conversation with Mr I about the payment he was trying to make.

I have thought about whether a conversation between Mr I and Monzo would have prevented any further payments being made in relation to the scam and I think it would have. If Monzo had spoken to Mr I about the payments I think it's likely Mr I would have given an accurate account of what the payments were for and how it had come about, that he was in contact with someone online that was asking him to make payments into an investment using cryptocurrency. Mr I would also likely have told Monzo he had downloaded 'AnyDesk'

on X's instruction which is a common theme in this type of scam. Monzo would then have been able to uncover the scam and prevent any further payments being made into it.

So, I think Monzo is responsible for Mr I's loss and should refund all payments Mr I made into the scam from the third payment he made of £9,990 on 14 September 2021.

Whilst I'm satisfied that Monzo could have prevented Mr I's losses from the third payment, there is still a general principle that consumers must take responsibility for their decisions.

Our Investigator suggested that Mr I should bear some responsibility for his loss as he didn't carry out due diligence checks prior to investing with the scammer. I think this is fair in the circumstances and I think a 30% reduction is also fair.

Putting things right

To put things right I require Monzo Bank Ltd to:

- Refund all the payments Mr I made into the scam from the third payment he made of £9,990, less 30%.
- Add 8% simple interest per year to the amount it pays Mr I from the time Mr I made the payments to the time Monzo Bank Ltd provides the refund (less any lawfully deductible tax).

My final decision

I uphold this complaint and require Monzo Bank Ltd to put things right as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 19 April 2023.

Terry Woodham
Ombudsman