

## The complaint

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

Mr A is represented by a firm I'll refer to as 'C'.

## 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 2022 Mr A was the victim of a crypto yield farming scam. Mr A transferred funds from his Monzo account to a trading wallet in his own name with a legitimate crypto exchange platform. These funds were then transferred to the scammer's - a firm I'll refer to as 'M' - trading platform. Mr A sent the funds to M in the belief he would receive a daily return of 3.3% on his investment.

The relevant payments from Mr A's Monzo account are:

Date	Amount
4 May 2022	£5
7 May 2022	£3,030
9 May 202	£10,000
12 May 2022	£2,880
<b>Total:</b>	<b>£15,915</b>

Shortly after this, Mr A became aware he'd been scammed when he logged on to the trading platform and his account balance showed zero. He contacted Monzo in October 2022 but they said they couldn't refund the money he'd lost. This was because his funds were transferred to a legitimate crypto exchange platform in his name before being sent to M. And so, the scam payments didn't come from Mr A's Monzo account.

C complained to Monzo on Mr A's behalf about what happened. In short, they said:

- Mr A, an inexperienced investor, was introduced to M by a relative who had been successfully trading on a similar platform - which M told Mr A they were linked to.
- Mr A researched M and found them to be a registered company in the country they were based in. He found their website informative and the trading platform very slick - and so easy to use as well as professional. Mr A also saw that M used various social media that he too found informative. He didn't however find anything to indicate M or the investment opportunity weren't legitimate.
- Crypto investment was prominent in the news and Mr A knew famous figures had invested in this area.
- M requested Mr A provide identification and a picture of his face as part of their know your customer and anti-money laundering checks. Mr A found this to be plausible and assumed all investment firms would require this before accepting a new client.

This instilled further confidence in Mr A being able to trust M as he considered this incredibly professional.

- Upon his account being verified, Mr A could log on and see the live trades. And he spoke with various persons at M through a messaging App – which further added to the legitimacy of the scam.
- Before making the payments from his Monzo account, Mr A had invested in crypto from another bank account in the months prior. And he contacted the crypto exchange platform, where his funds were initially sent, who confirmed M's trading platform was a legitimate company.
- Mr A saw a positive profit from his initial investment and was able to withdraw from the trading account to his own bank account.
- The payments Mr A made ought to have been identified by Monzo as unusual and he ought to have been contacted. Mr A however received no warning about the payments and so, Monzo failed to protect him from the scam.
- Had Monzo contacted Mr A to enquire about the payments and asked probing questions, they would've become aware he was likely falling victim to a scam. At which point Mr A ought to have been given an appropriate warning about the high risk of fraud with these types of payments. If this had happened, Mr A would've stopped the payment(s) and sought to establish the exchange was legitimate.
- The failure of Monzo to protect Mr A, due to ineffective fraud prevention measures, is why they should refund the money he lost.

Monzo rejected the complaint and said they weren't liable for Mr A's losses.

The complaint was referred to the Financial Ombudsman but our Investigator didn't think Monzo had to do anything further. She thought Monzo ought to have contacted Mr A when he made the £10,000 payment. Had this happened though, she didn't think it would've stopped Mr A from proceeding. This was because he was introduced to M via a trusted family member and he'd carried out checks on M, including that they were regulated in their country of base. Mr A also hadn't found anything negative about M when the payments were made. So, even if Monzo had questioned the payments and advised Mr A to carry out further due diligence, she didn't think Mr M would've found anything that would've prevented him from making the payments.

C disagreed and so the matter has been passed to me to decide. In short, they've added:

- Mr A shouldn't be blamed for the sophistication of the scam when Monzo is expected to be experts in this field, with the tools at their disposal to break the common scams they see.
- There were common hallmarks of a scam here such as the payment journey (Mr A's account > Legitimate exchange > Scam Wallet), the frequency and value of the payments and the guaranteed daily returns of 3.3%. And that M wasn't regulated within the UK.
- Monzo's failure to contact Mr A shows they didn't protect him from the fraud and financial abuse. And it wouldn't be fair to suggest Monzo can't be held liable due to Mr A's belief in the scam.
- Had Monzo appropriately probed Mr A about the payments, they would've become alarmed and the scam would've been uncovered.

### **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 A has been the victim of what appears to be a sophisticated and professional scam. But while I know this won't be the outcome Mr A will be hoping for, for similar reasons as our Investigator, I don't think Monzo has acted unfairly by not refunding the loss.

I've thought about the Contingent Reimbursement Model (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 to an account held by another person. As the payments Mr A made were sent to an account he held in his own name with a crypto exchange platform, they're not covered under the CRM code. I've therefore considered whether Monzo should reimburse Mr A under any of their other obligations.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Mr A knowingly made the payments from his Monzo account. I appreciate Mr A was tricked by the scammer as he thought it was a genuine investment opportunity. Nevertheless, I'm satisfied the payments were authorised by Mr A. So, under the Payment Services Regulations 2017 and the terms of his account, Monzo are expected to process the payments and Mr A 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 A to Monzo (either individually or collectively) were unusual in relation to his typical account activity.

Having looked at Mr A's account usage before the scam occurred, in addition to low value day to day spending, there was various faster payments made to a third party of between £1,000 and £3,000. Mr A had also regularly sent payments of a similar amount, and greater, to an account(s) held in his own name. And so, I don't think the first two payments would've been that unusual based on Mr A's typical account activity. However, I think the third payment of £10,000 was for more than Mr A typically used his account for. And given it was the third payment of an increasing value being sent to a relatively new payee within only a six-day period, I think Monzo ought to have identified it as unusual and that Mr A was potentially at risk of financial harm from fraud. So, I think Monzo should've held the payment and spoken with Mr A before releasing it.

I'd like to explain at this point that while I consider Monzo failed to take appropriate steps to protect Mr A from the scam here by not contacting him, this – in itself – doesn't mean they're responsible for his loss. But rather I must consider whether Mr A would've likely proceeded to make the payment(s) had Monzo carried out the appropriate additional checks along with suitable warnings being given.

I've thought carefully about this and had Monzo done so, I think it's likely Mr A would've explained the purpose of the payment – that being for crypto investment purposes. And given Monzo are aware of the prevalence of crypto scams, it would've been reasonable for them to have questioned Mr A about it further – including how Mr A came across the opportunity, the investment returns being offered and what checks he'd carried out to ensure M and the investment were legitimate.

I've no reason to think Mr A wouldn't have answered honestly. So, I think he would've told Monzo about the investment – including the payment journey and that it was expected to

provide daily returns of 3.3%. From this, I agree with C that these investment features should've given Monzo reason to think it could possibly be a scam. But I've considered that Mr A would've likely also told Monzo that he'd been introduced to M via a relative and he'd researched the firm himself. This included checking their social media and that M was regulated in the country they were based (as they said they were). He also hadn't found anything online to suggest M or the investment opportunity wasn't legitimate. And the crypto exchange platform he was sending his money to (before being forwarded to M) had confirmed M's trading platform to be a legitimate company. Furthermore, he'd been trading with M for several months using another bank account and he'd seen positive returns from his investment so far, as well been able to withdraw funds.

Because of this, I think Monzo would've been reassured that Mr A had carried out sufficient due diligence before proceeding with the investment. And given there wasn't anything publicly available at the time to indicate M was scamming their clients, I'm not persuaded Mr A would've been deterred from proceeding even if Monzo had recommended he carry out further checks or provided warnings of the risks associated with crypto investments.

I appreciate that Mr A has since become aware that M registered their firm with the regulator illegitimately at the time and has since been deregistered. I don't however think it would've been reasonable for Monzo to have known this. I likewise don't think M being based in a different country – and considered to be regulated there – would've given sufficient reason for Monzo to know it was a scam. This is because, although non-UK based investments won't provide the same protection that's potentially provided by the Financial Conduct Authority, this doesn't mean they're not legitimate.

I'm aware that C doesn't think it's fair for Mr A to be blamed for the sophistication of the scam. But I can only look at Monzo's responsibility to protect Mr A and whether they're responsible for his loss. And while I think they ought to have intervened before releasing the £10,000 payment, as I've explained, I don't think their failure to do so led to Mr A's loss. And so, for these reasons, I don't think they are required to refund Mr A.

On a final note, it's unclear whether Monzo contacted the receiving bank upon being notified by Mr A he'd been scammed. But given he sent the funds to a legitimate crypto exchange platform – and Mr A could access his trading wallet – I wouldn't have expected that here.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 May 2023.

Daniel O'Dell  
**Ombudsman**