

The complaint

Mr C complains that Monzo Bank Ltd (Monzo) has refused to refund the money he has lost following him falling victim to a scam.

Mr C is being represented by a third party. To keep things simple, I will refer to Mr C throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, in early 2021 Mr C was interested in cryptocurrency investment and after researching online came across a business called Digital Currency Market (X). Mr C made several payments into the investment with X via legitimate cryptocurrency platforms. Mr C made these payments via another of his accounts not held at Monzo).

In April 2021 Mr C wanted to make a withdrawal from the investment, but when he attempted to, he was told he would have to make further payments first and he was unable to make any withdrawals.

In late April 2021 Mr C was contacted by his representative at X. I will call this person Y. Y explained that he was moving the portfolio to a different platform (Global solutions) to recover Mr C's funds. Mr C was convinced Y was trying to help.

Y asked Mr C to open an account with Monzo as it would be easier to purchase cryptocurrency using the Monzo account. Mr C was also asked to open a Jaxx Wallet to transfer the crypto to. Mr C agreed.

Mr C was told he would have to transfer a large amount of Bitcoin into the Jaxx Wallet to unlock the funds he had previously invested. Mr C agreed but later found the Jaxx Wallet had been emptied and he has not been able to recover any of the funds.

Mr C made the following payments from his account with Monzo into the scam via different cryptocurrency exchanges:

Date	Payee	Amount	Payment Method
20 January 2022	Coinbase	£20	Transfer
20 January 2022	Coinbase	£20	Payment in
21 January 2022	Simplex-Elastum	£40	Transfer
24 January 2022	Paybis Simplex	£2,999	Debit Card
24 January 2022	Paybis Simplex	£40	Debit Card
24 January 2022	Paybis Simplex	£2,998	Debit Card
24 January 2022	Paybis Simplex	£2,997	Debit Card
24 January 2022	Paybis Simplex	£1,001	Debit Card
25 January 2022	Paybis Simplex	£2,999	Debit Card
25 January 2022	Paybis Simplex	£2,501	Debit Card

25 January 2022	Paybis_Simplex	£2,499	Debit Card
25 January 2022	Paybis_Simplex	£2,001	Debit Card
26 January 2022	Paybis_Simplex	£1,499	Debit Card
26 January 2022	Paybis_Simplex	£1,501	Debit Card
28 January 2022	Essential Tokens Ltd	£10,000	Transfer
31 January 2022	Essential Tokens Ltd	£10,000	Transfer

Our Investigator considered Mr C's complaint but didn't think it should be upheld. Mr C 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 Mr C has fallen victim to a cruel scam. The evidence provided by both Mr C and Monzo sets out what happened clearly. What is in dispute is whether Monzo should refund the money Mr C lost due to the scam.

Recovering the payments Mr C made

Monzo was unable to process a chargeback for the payments Mr C made via his debit card in relation to this scam to the cryptocurrency exchanges listed above.

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 C was dealing with the scammer, which was the business that instigated the scam. But Mr C didn't make the debit card payments to the scammer directly, he paid separate cryptocurrency exchanges. This is important because Monzo was only able to process chargeback claims against the merchants he paid, not another party.

The service provided by the cryptocurrency exchanges would have been to convert or facilitate conversion of Mr C's payments into cryptocurrency. Therefore, they 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 merchants Mr C paid. As the cryptocurrency exchanges Mr C made payments to provided the services to Mr C a chargeback attempt would likely fail.

Mr C also made payments via the method of transfer. I have considered if Mr C 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 Mr C sent the payments to an account held in his own name and the scam occurred when he moved his purchased crypto from that account to the scammer. I'm satisfied the CRM Code wouldn't apply in this scenario.

Considering the above I am satisfied that Monzo was unable to recover the funds Mr C sent from his Monzo account.

Should Monzo have reasonably prevented the payments Mr C made?

Mr C has accepted he authorised the payments that were made from his account with Monzo, albeit on Y's instruction. So, the starting point here is that Mr C 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 stepped in when Mr C was making the payments from his account, and if it had stepped in whether it would have been able to prevent the scam from taking place.

Although Mr C had opened a new account with Monzo so there was no history for Monzo to base irregular activity on I think several large payments on the same day to a cryptocurrency exchange should have triggered Monzo's fraud prevention system prompting Monzo to step in and have a meaningful conversation with Mr C about what the payments were for.

However, I don't think this would have made a difference. When Mr C made payments from his account with another bank in April 2021 that bank did step in and question Mr C about the payments he was making, and during this call he did not give full honest answers. Mr C said that no one else had been involved in the investment and that he had researched the investment himself.

I don't have enough to say Mr C would have given more honest answers to Monzo had it stepped in and had a similar conversation with him about the payments he was making from his Monzo account, and I think it's unlikely Monzo would have uncovered the scam that was taking place.

So, even though I think Monzo should have had concerns about the payments Mr C was making I don't think it missed an opportunity to prevent the scam and it is therefore not responsible for Mr C's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 July 2023.

Terry Woodham
Ombudsman