

The complaint

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

What happened

In early 2022, Mr B was looking into cryptocurrency and was sent a link to a video about an investment company by someone in an internet group he was a member of. He watched the video and joined some group chats about the company, before deciding to sign up and create an account with them. Someone from the investment company then guided Mr B through making payments to his account, and Mr B was given log-in details for his account where he could see the balance of his investment.

I've set out the payments Mr B made to the investment company from his Monzo account below:

Date	Amount
19 February 2022	£10
19 February 2022	£9,990
20 February 2022	£5,000
20 February 2022	£5,000
21 February 2022	£10,000
22 February 2022	£5,002
24 February 2022	£2,000
25 February 2022	£10,000
26 February 2022	£7,001

Unfortunately, we now know the investment company was a scam.

The scam was uncovered when Mr B logged into his account one day, but the chat function to speak with the investment company wasn't working. The investment company then also didn't respond to his emails or phone calls. Mr B then reported the payments to Monzo as a scam and asked it to refund the money he had lost.

Monzo investigated but didn't agree to refund the payments. It said it had made the payments in line with Mr B's instructions, and didn't feel he had taken sufficient steps to research the company or check who he was paying. Mr B wasn't satisfied with Monzo's response, so referred a complaint to our service.

One of our investigators looked at the case. They thought Monzo should have intervened before allowing the third payment Mr B made to go through. And that, if it had intervened, the scam would have been uncovered and Mr B wouldn't have lost that payment, or any of the later payments. So they thought Monzo should refund the money Mr B had lost, from the third payment onwards. Monzo disagreed with our investigator, so the complaint has been passed to me.

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.

Banks are expected to make payments in line with their customers' instructions. And Mr B accepts he made the payments here. So while I recognise he didn't intend for the money to go to scammers, he did authorise the payments. And so the starting position in law is that Monzo was obliged to follow his instructions and make the payments. So Mr B isn't automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think 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 banks 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.

And so I've also considered whether Monzo should have identified that Mr B was potentially at risk of fraud as a result of these payments.

Monzo has argued that it shouldn't be expected to have identified a risk of fraud here, as Mr B had said the account would be used for spending towards cryptocurrencies when he opened it – and so the payments were in line with the intended use of the account. But while I agree it is reasonable for Monzo to take the stated use of an account into consideration when looking at the risk certain payments represent, I don't think a stated use means all payments for that purpose can't represent any risk at all. And I still think it should have identified a risk as a result of some of the payments Mr B made here.

The first payment Mr B made was for £10, which I don't think is a particularly large amount and so I wouldn't expect Monzo to have identified a risk as a result of it. And while the second payment of £9,990 was for a significantly larger amount, it was made to a digital wallet provider often used for purchasing cryptocurrency. So it was in line with the intended use of the account Mr B had given when opening the account. And so I think it's reasonable that Monzo didn't identify a risk of fraud as a result of this payment either.

But once Mr B tried to make the third payment, for £5,000, I think Monzo should have identified a risk. This payment was also for what I consider to be a significant amount. And at this point Mr B had made three payments in just two days to the digital wallet provider, totalling a considerable amount of money – which matches a pattern of payments often seen in scam cases. So even though Mr B appeared to be spending on cryptocurrency as he had intended to do so, I think the other circumstances here mean Monzo should still have identified that he was at risk of financial harm from fraud. And so I think it should have intervened to carry out additional checks before allowing this payment to go through.

It's not for our service to dictate the checks Monzo should do or the questions it should ask. But banks should take steps designed to protect their customers from the risk of financial harm. And, in these circumstances and given the size of this payment, I think it would be reasonable to expect those checks to include questions about the purpose of the payment and then follow-up questions about the investments Mr B thought he was making.

I've not seen anything to suggest Mr B would have lied or tried to mislead Monzo if he was asked about the payment. So I think it's likely he would have told Monzo the payment was for an investment he was making. I think Monzo should then have asked further questions about the investment, such as what he was investing in, where he had found out about the investment and whether anyone was helping him with it. And I think Mr B would then have said he was investing in cryptocurrency, had found out about the investment company online and was being guided through making the payments by someone from the company. And as this fits the pattern of common cryptocurrency investment scams, I think Monzo should then have warned him that he was likely the victim of a scam.

If Monzo had warned Mr B that his circumstances fitted the pattern of common cryptocurrency investment scams, and given him some advice on how to avoid scams such as trying to withdraw all his funds or checking the company was registered with the FCA, I think he would have realised that this was likely a scam and wouldn't have made any further payments.

So if Monzo had done more to try to protect Mr B, as I think it should have, I don't think he would have made this third payment or any of the later payments. And so I think Monzo should therefore refund the money he lost as a result of the scam, from the third payment onwards. As Mr B has now been without this money for a period of time, I think Monzo should also pay him compensatory interest at the rate of 8% simple a year from the date of the payments until the date they are refunded.

I've also considered whether Mr B should bear some responsibility for the loss he suffered, but I don't think it would be fair for him to do so. This was a sophisticated scam where the scammers had set up a legitimate looking website and a trading platform Mr B could log-in to and check his account. Mr B has said they were also posting regular videos on social media websites about suggested trade activity and were active on group chats involving many members. And the fake investment company had been registered on a foreign country's company register, which Mr B was shown before making any payments. So I don't think it would be fair to say Mr B acted unreasonably or negligently.

My final decision

For the reasons set out above, I uphold this complaint in part and require Monzo Bank Ltd to:

- Refund Mr B the money he lost, from the third payment onwards – totalling £44,003
- Pay 8% simple interest a year on that refund, from the date of the payments until the date of the refund

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or

reject my decision before 25 October 2023.

Alan Millward
Ombudsman