

The complaint

Mr A is unhappy Monzo Bank Ltd will not refund the money he lost as the result of an investment scam.

Mr A's complaint has been brought by a representative, for ease of reading I will refer solely to Mr A in this decision.

What happened

All the details are well known to both parties and were set out in the investigator's view of 12 January 2023 - so I won't repeat them in full here. In summary, Mr A was the victim of an investment scam which resulted in him making the following payments from his Monzo current account.

| Payment number | Date | Method of payment | Merchant | Amount (£) | Running total |
|----------------|--------------|-------------------|------------------|------------------|------------------|
| 1 | 15 June 2022 | Debit card | Wellari.tech | £208.47 | £208.47 |
| 2 | 22 June 2022 | Faster Payment | Skrill (Binance) | £1,001 | £1,209.47 |
| 3 | 6 July 2022 | Faster Payment | Skrill (Binance) | £3,643 | £4,852.47 |
| 4 | 6 July 2022 | Faster Payment | Skrill (Binance) | £3,643 | £8,495.47 |
| Total | | | | £8,495.47 | £8,495.47 |

Mr A believed he was funding his investment opportunity with a company I'll call 'C' after being contacted by them. He was persuaded to open a cryptocurrency exchange account in order to buy crypto to fund his investment with C but it turned out to be a scam.

Mr A says Monzo ought to have identified he was likely fallen victim to a scam and feels it could have prevented his loss.

Monzo declined Mr A's refund. It tried to recover the faster payments from the beneficiary bank but the bank advised the funds had been utilised. It also concluded Mr A had no recourse through the Mastercard chargeback scheme for his debit card payment.

Mr A referred his complaint to this service explaining that he wants a full refund along with £500 compensation; and for Monzo to cover any related legal costs.

Our Investigator upheld the complaint in part. He felt Monzo ought to have been concerned about Mr A's final faster payment as it represented unusual and uncharacteristic account activity and he felt an intervention could have prevented further losses. He did however feel Mr A should share equal responsibility for this payment as the due diligence checks he says he carried out ought to have identified many negative reviews about C. Mr A accepted but Monzo did not.

Monzo said in summary, the payments were not out of character as Mr A had a short history

of trading in cryptocurrency over a few weeks and he mainly used the account for faster payments. It also knew the payments were going to an account in Mr A's name and intervening would be putting barriers up for him.

The case was therefore passed to me for determination.

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.

At the time Mr A made his payments, banks were expected to process payments a customer authorised it to make; but as a matter of good industry practice, a bank should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. There is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction.

Firstly, this was a very sophisticated scam and Mr A had been introduced to what appeared to be a very real investment opportunity with a trading platform that indicated his investment was performing well. So I think he trusted C was a legitimate investment opportunity at the time he made all of his payments.

Three of the four payments in dispute were Faster Payments sent to a well-known crypto exchange. Monzo has said it identified Mr A was paying a crypto exchange account in his name – so it's reasonable for me to conclude that Monzo ought to have known that Mr A was likely purchasing crypto at the time he sent these payments. I've also thought about whether there was anything else about the payments which ought to have concerned Monzo.

The first two payments

I agree with our investigator and I don't think I can fairly say that the first two payments were sufficiently unusual or uncharacteristic for the account. They were in keeping with Mr A's normal account activity when considering his previous account spend. For example, Mr A made an undisputed Faster Payment of £1,328 in February 2022.

The payments were also made one week apart and so appeared to be one-off payments. I don't think Monzo ought to have been obliged to have intervened before allowing either of them through in order to protect Mr A from the possibility of financial harm from fraud – as I don't think it could have reasonably suspected this.

Payment three

Whilst payment three was higher than payments one and two, it was also approximately two weeks after payment two. I don't think Monzo ought reasonably to have suspected Mr A was at risk of financial harm. It's not uncommon for customers to spend larger amounts at any given time. I don't think payment three was sufficiently unusual or uncharacteristic to mean that Lloyds ought to have suspected that Mr A's account was at risk of financial harm from fraud and therefore warrant an intervention.

Payment four

I do however think payment four, when taken cumulatively with payment three ought to have warranted an intervention from Monzo. Payment four represented a total of £7,286 on the

same day to a relatively new payee for Mr A. This was the most Mr A had spent since September 2021 and I think Monzo ought to have had some concern that Mr A's account was subject to unusual and uncharacteristic activity.

Monzo has said Mr A would have seen a new payee warning when he sent his first Faster Payment. I've read the contents of the warning Mr A would have seen and I don't think it was relevant to the investment scam he'd fallen victim to.

Monzo confirmed it didn't intervene and I think it was a missed opportunity to do so. If Monzo had intervened (as I think it ought reasonably to), I'd have expected it to query with Mr A what the purpose of the payment was. I think he'd have likely explained he was purchasing crypto. I'd also have expected Monzo to query whether he was investing upon the advice of a third party. I think Mr A would have likely explained he was investing with C and had been investing with them for a few weeks.

I think Monzo ought to have asked if Mr A had been able to withdraw any of his investment and I think Mr A would likely have explained he had tried but was told he needed to pay money to release his profits. I think this would have been of concern to Monzo as it would likely have recognised this as a theme of a common investment scam. I think at this point, Monzo could have provided some useful information about how crypto investment scams work and that it sounded like Mr A had fallen victim to one.

So before payment four was actually processed, Mr A would probably have stopped in his tracks. But for Monzo's failure to act on clear earlier triggers of potential fraud or financial harm, Mr A would probably have not lost this final payment.

I've also thought about whether Mr A's actions contributed to his losses. Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, I do think it would be fair to reduce compensation on the basis that Mr A should share blame for what happened. As I explained, this was a sophisticated scam and I think Mr A believed it was legitimate. But Mr A said before investing with C, he conducted due diligence checks on Trustpilot. He said he saw 'good reviews' about C but having checked this myself, I've not found any good reviews about C but I have noted several scam reviews prior to Mr A's first payment to them. So like our investigator, it's likely Mr A ignored the scam reviews, or didn't carry out any due diligence checks but given his testimony, I agree that he should share 50% responsibility for this payment.

Recovery

I've considered whether Monzo could have recovered any of Mr A's payments. As he made a payment using his debit card, the only potential recovery option for payment one would have been through the chargeback scheme.

The chargeback process is voluntary and run by the card scheme – in this case Mastercard - whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed or be deemed a 'valid claim'.

Our role in such cases is not to second-guess the card scheme rules, but to determine whether the regulated card issuer (i.e. Monzo) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of Mr A.

I don't see that Monzo attempted a chargeback claim for payment one. But I don't think this makes a material difference. Mastercard restricts chargeback options for investment transactions. It considers the purpose of the Mastercard transaction to load funds into the gambling or investment account and not what activities are subsequently done with the funds. There doesn't seem to be a dispute that Mr A's funds were ultimately loaded onto his investment account, so I don't think Monzo had a valid chargeback ground to use in this instance.

In relation to payments two to four, these were Faster Payments sent to Mr A's own account with Skrill (Binance). I have however seen that Monzo attempted to recover these payments from the beneficiary bank and it received a response advising the funds had been utilised.

I therefore don't think Monzo could have recovered any of Mr A's payments.

I do however think it could have prevented payment four so it should return this, less 50%, together with interest.

Customer service

I've considered Mr A's request for compensation and legal fees. Whilst I think Monzo missed an opportunity to intervene, I don't intend to award additional compensation for this. I think most of Mr A's distress was caused by the cruel scammers, rather than Monzo. I also don't intend to award a payment towards Mr A's legal fees, he isn't required to come to this service with a legal representative as we offer a free service, so any costs incurred by Mr A are his responsibility to pay.

My final decision

Monzo Bank Ltd should refund payment four less 50% which totals £1,821.50. It should also pay 8% simple interest, per year, on this amount, from the date of the payment, to the date of settlement (less any lawfully deductible tax).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 27 July 2023.

Dolores Njemanze
Ombudsman