

The complaint

Miss V complains that Monzo Bank Ltd didn't treat her fairly when she fell victim to an investment scam in 2021.

What happened

In early July 2021, Miss V started chatting with someone she'd met on a dating site (I'll refer to this individual as S). Over the course of the next week, they chatted at length, and S gained Miss V's trust before mentioning that they were investing successfully on a trading platform I'll refer to as T.

S encouraged Miss V to invest in T. He said he was receiving exceptional returns, apparently over 10% in a day.

Miss V created accounts with legitimate cryptocurrency exchanges A and B. These were to be used to purchase cryptocurrency which would then be transferred to a wallet supposedly held by T.

Initially Miss V invested only a small sum. This appeared to have done well, and Miss V invested larger sums. She was able to withdraw some amounts from T, receiving these as cryptocurrency into the wallet she held with B. From there, Miss V sold the cryptocurrency and transferred the proceeds back to her Monzo account.

In total, Miss V made several related payments within the span of six days, as set out below:

Payment Sequence	Date	Payee	Method	Debit	Credit
1	13-Jul-21	A	Card Payment	£105.00	
2	14-Jul-21	A	Card Payment	£400.00	
3	15-Jul-21	A	Card Payment	£6,336.07	
	15-Jul-21	B	Credit		£699.00
4	15-Jul-21	B	Faster Payment	£7,000.00	
5	15-Jul-21	B	Faster Payment	£100.00	
6	16-Jul-21	B	Faster Payment	£3,000.00	
7	16-Jul-21	B	Faster Payment	£10.00	
	16-Jul-21	B	Credit		£10.00
8	17-Jul-21	B	Faster Payment	£1,000.00	
9	17-Jul-21	B	Faster Payment	£200.00	
10	18-Jul-21	B	Faster Payment	£1,400.00	
11	18-Jul-21	B	Faster Payment	£2,050.00	
	19-Jul-21	B	Credit		£4,545.00
12	18-Jul-21	B	Faster Payment	£3,000.00	

13	18-Jul-21	B	Faster Payment	£2,500.00	
	24-Jul-21	B	Credit		£99.00
TOTALS				£27,091.07	£5,353.00
Net loss				£21,738.07	

Miss V invested additional sums from her account held with another bank, between 16 July and 22 July.

However, she found that her account with T had been flagged as being 'under review'. She contacted T and was told she'd need to pay a further £50,000 to withdraw her money. Miss V realised that this didn't make sense, and that this had been a scam. Having utilised all the funds she'd transferred to A and B through purchasing cryptocurrency and having transferred all of that to T, she was left significantly out of pocket.

She reported the matter to Monzo. She also reported the payments she'd made from her other bank account to the relevant bank.

Monzo looked into the losses resulting from the payments she'd made from its account. It said it wasn't responsible for refunding her the money she'd lost to A and B. Monzo didn't consider it should have had concerns that these payments were at particular risk of being fraudulent in nature. It said Miss V had paid the money from her Monzo account to cryptocurrency wallets she held with A and B, both legitimate cryptocurrency wallet providers.

The loss had occurred when she'd moved her funds on from those wallets to T in the form of cryptocurrency, rather than when she'd moved money from Monzo to A and B. So, it thought she should take the matter up with A and B, but Monzo wasn't at fault.

Miss V was unable to recover any funds from A or from B – these funds had been used to purchase cryptocurrency which she'd sent straight on to T. Miss V complained, but Monzo reiterated its position.

Our Investigator considered what had happened. He noted that none of these payments would be covered by LSB's Contingent Reimbursement Model Code (CRM Code) because that code did not apply to card payments, or to Faster Payments made to someone's own accounts.

He thought that the first two card payments weren't significant or remarkable compared to Miss V's usual account activity. But by the point of payment three, for the sum of £6,336.07, he thought Monzo should have been concerned that Miss V might be at risk of financial harm. He thought Monzo should have intervened at the time to reassure itself this wasn't the case. Had Monzo done so, Miss V would likely have investigated further and not proceeded. She would not have lost this, or the subsequent payments.

However, the Investigator thought it fair that Miss V should share some of the blame for what had happened. Amongst other things the supposed investment returns were too good to be true and ought to have prompted Miss V to carry out additional checks into T before sending such significant sums. The Investigator therefore said it was fair to split the liability for the loss equally. Monzo should refund Miss V 50% of the net loss from the point of payment three onwards.

Miss V accepted the Investigator's view. Monzo disagreed. It said a transfer to someone's

own account had minimal risk of being liable to cause loss due to fraud. The payments Miss V had sent from her Monzo account had been received into legitimate wallets over which only Miss V had control. It didn't agree to refund any of the losses that had resulted.

In light of this disagreement, I have been asked to make a final decision on the matter.

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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

It has not been disputed that Miss V fell victim to a cruel scam. The evidence provided by both Miss V and Monzo sets out what happened. What is in dispute is whether Monzo should refund the money Miss V lost due to the scam.

Recovery of the payments

I've first considered whether Monzo could have done more with regards to the recovery of Miss V's payments once she reported the matter to it.

In relation to the first three payments, card payments to A, I've considered whether there was any reasonable prospect of recovery through the card operator's chargeback scheme. Chargeback is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. In practice there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed.

Monzo explains that it would have had no valid chargeback grounds in scenarios where the funds were used to purchase cryptocurrency. This was the situation here, Miss V received what she paid for from A. I don't think Monzo acted unfairly by not pursuing a chargeback for these card transactions, there would have been no reasonable prospect of such a claim succeeding.

In relation to the subsequent payments (all of which were made as Faster Payments transfers to B) because Miss V had utilised all of the funds she'd sent to purchase cryptocurrency, Monzo was unable to recover any of her money from B.

In short, I don't find Monzo liable to reimburse Miss V for any failure in its efforts to recover her funds after the scam came to light.

Could Monzo have done more to protect Miss V?

Under the relevant regulations, and in accordance with general banking terms and conditions, banks have an obligation to execute an authorised payment instruction without undue delay. As a consequence, the starting position is that liability for an authorised payment rests with the payer, even if they made that payment as the consequence of a fraud or scam - for example as part of an investment scam such as this was.

Here, the three card payments were authorised by Miss V using her log-in and card security credentials. The Faster Payment transfers were correctly authorised by Miss V. As a starting

point, under the relevant regulations, she's therefore considered liable. That applies even though she made the payments as the consequence of a scam.

However, where the customer made the payments as a consequence of the actions of a fraudster, I consider it may sometimes be fair and reasonable for a bank to reimburse their customer even though that customer authorised the relevant transactions.

I'd expect that Monzo, as a matter of good industry practice at the time, should have been looking out for payments or payment patterns that might reasonably be considered to indicate potential financial detriment to its customer through fraud or scam.

And by 2021, when these transactions took place, I think it is reasonable to expect Monzo to have been aware of the hallmarks of cryptocurrency-based scams at the time (including that these might start with payments being made to a wallet held at an exchange in the customer's own name).

I say that bearing in mind that the FCA had specifically drawn attention to the increasing risk of this type of scam and its typical features in mid-2018. That was around three years prior to this scam taking place. So, as a matter of good industry practice, I'd expect this type of intelligence to have been recognised by Monzo long before the time of the scam that affected Miss V and that this should have been incorporated into the bank's prevention measures.

Where such a risk of harm ought reasonably to have been identified, I'd expect Monzo to intervene to reassure itself on the legitimacy of the transaction prior to processing the relevant payment instruction.

Here Monzo has argued that none of the transactions should have caused it such concern. These payments were all destined for wallets or accounts held in Miss V's own name.

I have taken this argument into consideration here. I consider that in general the perceived risk of a payment (or payments) being sent to a customer's own account would undoubtedly be significantly less than payments made to another person. But I don't consider that this factor entirely removes the risks associated with a payment made to a cryptocurrency wallet.

As I've noted above, the rapid growth in the prevalence of scams of this type had already been highlighted by the FCA and others. That means I think the fact that the destination wallet was Miss V's own would provide only a very limited degree of reassurance to Monzo that this might not be a means by which Miss V was about to become the victim of a scam.

And I find that the size of the third payment was remarkable enough in the context of Miss V's prior account usage to have prompted such concerns from Monzo, given its destination – despite this being a wallet held in her own name. Miss V had held her Monzo account since 2018 and the account history indicates she used it for day-to-day spending. This third payment, in the sum of £6,336.07, was for a significantly higher sum than Miss V's usual account activity.

The largest single payment in the previous year was £500 and there is no sign of prior payments to cryptocurrency related destinations. This payment was now the third payment in as many days to a cryptocurrency exchange, these payments significantly escalating each time. It was for a value over ten times that of the largest payment made on her account in the previous year.

I'm satisfied there was enough for the bank to have been aware that what was happening had the hallmarks of a cryptocurrency scam. I'd expect as a matter of good industry practice,

that Monzo should have taken the step of delaying the payment until it could satisfy itself that this was not the case, and that the transaction would not in fact lead to financial harm for its customer. This could have been achieved for example, by contacting Miss V and asking some discrete questions about the transaction (perhaps through the bank's chat function or another suitable communication channel).

Had Monzo asked Miss V about the payment and what it was for, I've seen nothing to suggest she'd have done otherwise than to tell the bank what she fully believed was happening at that time. I consider it more likely than not that this would have in turn prompted additional checks before releasing the payment. Carrying out those checks, as happened a few weeks later when the scam was uncovered, would have meant the scam would have come to light sooner than it did - before this and the subsequent payments took place.

I find it most likely that these payments would thus have been prevented, as would the ensuing loss. I think it is fair and reasonable to find Monzo liable here because I find this potential loss was reasonably within the bank's contemplation at the time, given what it already knew and what I consider it should have established.

In summary, because Monzo did not take the steps I find it should have done, and because those steps would likely have prevented Miss V's loss, I consider it fair for Monzo to share some of the responsibility here.

To summarise, in reaching this finding, I have taken account of Monzo's arguments concerning the point of loss. But I am satisfied that based on what it knew, Monzo should have taken further steps to protect its customer and that this would have made a difference here. I consider this reflects what was reasonably expected of Monzo, in light of both good industry practice and awareness of cryptocurrency-based scams at the time. Monzo ought to have identified that Miss V was at imminent risk of loss through fraud as a result of this payment (and subsequently) - I find this was foreseeable harm, and loss, to Miss V.

Should Miss V share responsibility?

I've explained above why I think it is fair and reasonable for Monzo to bear some liability for what happened. I have gone on to consider whether it would be fair for Miss V to bear some share of this responsibility.

All considered, I find it would be fair for both parties to equally share responsibility for the losses following on from the third payment listed above. I will explain why.

I have taken into account everything Miss V has submitted and understand her motivation for seeking to invest as she did. I accept she was the victim of a cruel scam here. She entered into the arrangements she did in the belief she was entering into genuine investment opportunities. I have considerable sympathy for her and the impact of the resulting losses.

But I think there were several aspects here that should reasonably have led Miss V to have had concerns that what she was being asked to do wasn't legitimate.

Firstly, the returns it seems she was being offered and then told she'd achieved were significantly higher in size and rapidity than could be expected for legitimate investments, including those bearing significant levels of capital risk. In short, what she was being told was simply too good to be true. At the very least, I consider this should have prompted additional caution before proceeding. But based on what I've seen, Miss V hadn't taken even basic steps to validate what she was being told (such as checking whether T was registered with the FCA) before she sent considerable sums of money. She was placing a huge amount

of trust in someone she'd never met in person, and whose story had little to back it up beyond what he told her.

Had Miss V looked a little further into T I think she'd have found little to reassure her. I think she'd have realised that this likely wasn't legitimate, given the lack of positive internet coverage or even registration with a regulator. With all of this factors in mind, while I have considerable sympathy for Miss V, I consider she should fairly bear a share of the responsibility for the losses she incurred.

It is unclear how Miss V would have utilised the funds she lost through this scam had the relevant payments been prevented. But she would not have been deprived of these funds for the time she has been. In the circumstances I consider it fair that Monzo should add interest to the amount it should now refund Miss V at the rate of 8% simple interest per year.

My final decision

For the reasons explained above, I've decided it is fair and reasonable to partly uphold Miss V's complaint about Monzo Bank Ltd. I therefore require Monzo Bank Ltd to pay Miss V:

- the sum of £10,616.53, being 50% of the net loss incurred from payment three onwards. Monzo may deduct any amounts already reimbursed or returned to Miss V relating to these specific payments; and,
- 8% simple interest per year on this amount, calculated from the date Miss V made each payment until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss V to accept or reject my decision before 9 January 2024.

Stephen Dickie
Ombudsman