

The complaint

Mr R complains Monzo Bank Ltd (“Monzo”) won’t refund the money he lost after he fell victim to a cryptocurrency scam.

What happened

In early 2022, Mr R saw an advert online for a cryptocurrency investing platform with a dedicated account manager.

Mr R reached out to the company, who we now know were operating as a scam, and they were able to answer all of his questions about the cryptocurrency market and show him profits made by other investors. Mr R was also shown his own trading profile which looked genuine and professional.

The majority of the conversations between Mr R and the scammers took place over the telephone, so it is difficult to now know exactly what was discussed about the supposed investments that were taking place. However, it appears that Mr R was told he could expect 3-5% return on each trade he completed, with the aim of initially completing two a day.

In order to facilitate his investments, Mr R was told to set up an account with a genuine cryptocurrency wallet which he could use to purchase cryptocurrency. Mr R would then transfer his newly purchased cryptocurrency on to what he thought was his genuine trading account, but was actually the scammers account. In order to facilitate the transfers from his bank account to the cryptocurrency wallet, Mr R opened an account with Monzo which the scammers told him was a “cryptocurrency-friendly bank”.

In total, between April and July 2022, Mr R made the following payments from his Monzo account:

Date	Payment type	Amount
30 April 2022	Faster payment	£1.00
30 April 2022	Faster payment	£3,650
3 May 2022	Faster payment	£100
11 July 2022	Faster payment	£10,000
12 July 2022	Faster payment	£10,000
14 July 2022	Faster payment	£10,000
15 July 2022	Faster payment	£10,000
16 July 2022	Faster payment	£10,000
19 July 2022	Faster payment	£10,000
20 July 2022	Faster payment	£10,000
21 July 2022	Faster payment	£10,000
22 July 2022	Faster payment	£2,000
25 July 2022	Faster payment	£10,000
26 July 2022	Faster payment	£10,000

28 July 2022	Faster payment	£10,000
29 July 2022	Faster payment	£10,000
	Total	£125,751

In late July 2022, Mr R tried to withdraw his funds and was unable to. At this point, he realised he'd likely been the victim of a scam and so he reported what had happened to him to Monzo, via a professional representative.

Monzo looked into what had happened to Mr R but it didn't think it should be held liable for his loss. It said the payments made by Mr R were not covered by the CRM Code and by the time Mr R was making higher value payments his the account, the payee was well established. Because of this, Monzo said none of the payments stood out as warranting intervention. Monzo also said Mr R had failed to complete any checks on the company he thought he was paying. And, that he had been presented with scam warnings at the time he was making the initial payments but he had proceeded regardless.

Unhappy with Monzo's response, Mr R brought his complaint to this service.

One of our investigators looked into things and upheld the complaint in part. He recommended that Monzo refund 50% of Mr R's loss from the first £10,000 payment onwards, alongside 8% simple interest on all of the payments apart from the last. Our Investigator thought Mr R should bear responsibility for the remainder of his loss.

Mr R agreed with our Investigators findings but Monzo did not. It reiterated what it had said in its initial submissions and asked for an Ombudsman to review the complaint.

As an agreement has not been reached, the complaint has now been passed to me for a final decision.

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.

Having done so, I've reached the same outcome as the one reached by our investigator, for largely the same reasons. I'll explain why in more detail below:

The starting position in cases like this is that Mr R is presumed liable for the payments that left his account in the first instance. This is because, as per the Payment Service Regulations, he authorised them. However, that isn't the end of the story and Monzo has responsibilities beyond simply executing payment instructions it receives from its customers.

Does Monzo bear any responsibility for Mr R's loss?

It's well-established (through industry regulation, best practice standards, and this service's approach to scam complaints) that Monzo ought to have had systems and processes in place for identifying payments at risk of fraud. That includes monitoring accounts for suspicious and unusual activity. This service's approach to cryptocurrency scams has also been well-established for some time now, and Monzo ought to be aware of this.

Cryptocurrency scams have been growing in prevalence for several years, with the FCA specifically providing commentary on them as early as June 2018, including publications on its website and a 'Dear CEO' letter. I'm therefore satisfied that Monzo ought to have been

aware of, and on the lookout for, cryptocurrency scams at the time Mr R fell victim to this particular scam and this includes instances where a customer make payments which firstly go to a cryptocurrency wallet in their own name. That the payments went to Mr R's own cryptocurrency wallet initially doesn't remove Monzo's obligations to protect him from fraud and financial harm. And I'm satisfied that the loss to him, in sending the money to a cryptocurrency wallet before moving it on to a fraudster, was both reasonably foreseeable and preventable in this particular case.

The Contingent Reimbursement Model (CRM) Code doesn't apply to Mr R's circumstances because of the specific provisions of the Code. However, those provisions don't remove Monzo's account monitoring and fraud prevention responsibilities. And so, I'm persuaded that Monzo might be considered to bear responsibility for Mr R's loss, if it is evidenced it didn't act as it ought to have done when the payments were being made. And I'm satisfied that by the first transfer of £10,000, the activity on Mr R's account was suspicious enough to have warranted intervention by Monzo.

I appreciate that by this point, Mr R was paying an established payee. However, this payment is of a particularly high value compared to the usual spending on Mr R's account. It is nearly three times as high as any previous payments made. And so, I'm satisfied that the payments made as part of the scam started to become unusual at this point. They had started to significantly increase in value. And because of this, I think Monzo should've contacted Mr R about this payment to discuss it with him before it agreed to process it on his behalf. I appreciate that Monzo had previously presented Mr R with a pop-up scam warning, but given the activity taking place on the account, I don't think this was good enough.

I am satisfied that direct intervention from Monzo at this point would have made a difference here. I've taken on board that Mr R had been told by the scammers that the bank would try and prevent payments going to a cryptocurrency wallet, and that he had been told not to tell the bank he was making payments for the purposes of a cryptocurrency investment. Because of this, I'm not persuaded that Mr R would've been particularly forthcoming about the circumstances that were leading him to make these payments. However, it's difficult to ascertain how Mr R could have misled Monzo as to the purpose of this payment had he been questioned, it would have been clear at the time what it was being used for. And had Mr R then denied this, this would have been a significant red flag. I'm also not persuaded that Mr R would've been able to explain in any detail why he was making such payments which at this point amounted to nearly a third of his yearly annual salary. And so I'm satisfied Monzo ought to have been concerned, given that there were some of the hallmarks of a scam present.

Monzo ought then to have highlighted the scam risk to Mr R and attempted to dissuade him from proceeding, offering strong warnings and explaining the features of such scams in detail. For example, Monzo could've told Mr R about the common features of cryptocurrency scams - explaining how they are often supposedly endorsed by well-known celebrities and offer very high return rates. Specifically, Monzo could also have told Mr R that if someone was supposedly trading on his behalf, this was more than likely a scam.

I've seen nothing to persuade me that Mr R wouldn't have listened to the bank and so I'm satisfied that from this point onwards Monzo could've prevented Mr R from making any further payments. And so, I'm satisfied Monzo bears responsibility for Mr R's losses from the first £10,000 payment onwards.

Should Mr R also bear some responsibility for his loss?

I've then thought about whether Mr R should also bear some responsibility for his loss. Our Investigator felt Mr R ought to have been concerned about what he was being told right from

the outset of the scam, especially given the proposed returns he had been promised. And having reviewed all of the evidence available to me, I agree.

Mr R doesn't appear to have carried out any independent checks on the scammer or the firm the scammer claimed to work for before agreeing to transfer hundreds of thousands of pounds. There were no steps taken to verify the person Mr R was speaking with or the firm's legitimacy. There also doesn't appear to have been an exchanging of terms and conditions, or a contract/agreement between Mr R and the investment firm either. I also can't ignore that as early as May 2022, there were articles online highlighting that the company Mr R was dealing with was likely operating a scam.

I also find the rate of return Mr R was promised too good to be true from the outset. Mr R had been told that he could expect a 3-5% return on all of his trades. At one point, Mr R was told he'd received a 60% return despite he himself pointing out that the market appeared to have fallen. I don't find that can be fairly and reasonably described as realistic or believable. And I'm satisfied that when presented with such returns, and after being pressured to invest more and more and lie to his bank, Mr R should have been suspicious too. But he continued to make the payments when he should have been more cautious.

I understand that Mr R had previously invested a small amount and had been able to withdraw a small amount too. But I don't find that this outweighs the elements I've already described. I'm satisfied Mr R ought to have been concerned and been more cautious from the outset. With this in mind, I find the 50% reduction in award recommended by the Investigator ought to be applied from the first £10,000 payment and be applicable to all of the remaining payments that followed.

Putting things right

In order to put things right for Mr R, Monzo should:

- refund Mr R 50% of each payment, from the fourth payment onwards
- pay 8% simple interest on all of the above payments, apart from the last two, which were facilitated from a family fund available to Mr R, from the date the payments left the account to the date of settlement.

My final decision

My final decision is that I partially uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 December 2023.

Emly Hanley Hayes
Ombudsman