

The complaint

Miss B complains that Monzo Bank Ltd didn't do enough to protect her from the financial harm caused by an investment scam company, or to help her recover the money once she'd reported the scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In September 2022, Miss B met someone through an online dating site, who I'll refer to as the "scammer". She communicated with the scammer via WhatsApp, building a friendly and trusting rapport as they got to know each other. They also spoke on the phone, which further convinced her the relationship was genuine.

After a couple of weeks, the scammer told Miss B it was a good time to invest in cryptocurrency. He said he'd been investing for a long time and persuaded her to give it a try. He said his uncle worked in finance, which is why he knew so much about investing. He told her to first purchase cryptocurrency through a cryptocurrency exchange company I'll refer to as "C", and then load the cryptocurrency onto an online wallet. Between 20 September 2022 and 28 September 2022, she made six payments to C totalling £90,000 via online transfer from her Monzo account.

She started with a deposit of around £1,000, which came from another of her bank accounts and on 20 September 2022, she agreed to invest £20,000, which she transferred to the cryptocurrency exchange from her Monzo account. After making the payment, she saw pop-up messages regarding opportunities to double her money, but she didn't have the money, so the scammer deposited £75,000 into her wallet. She then took out a loan for £25,000 (telling her bank the money was for home improvements), which she used to buy more cryptocurrency.

When Miss B decided she wanted to make a withdrawal, she was told she needed to pay a 'gold certification fee', which couldn't be paid using money from her account. She made various attempts to pay the fee before realising she'd been the victim of a scam.

Miss B complained to Monzo, but it refused to refund any money. It said the transfers were to a legitimate cryptocurrency exchange, so no loss occurred from her Monzo account. It also said she didn't do enough research and when she sent money via the Monzo app, she would have received a warning message instructing her to make sure the payee was safe and that legitimate investments aren't arranged over social media.

Miss B wasn't satisfied and so she complained to this service with the assistance of a representative. The representative said Monzo should have intervened as Miss B had made six payments to a new payee linked to cryptocurrency that totalled £90,000 within the space of eight days. They argued the payments were extremely out of character and should have been flagged for additional questioning.

Specifically, they said the first payment of £20,000 should have been flagged because it was high value and to a new payee, and Monzo should have intervened and given her an effective warning. The representative said it should have contacted Miss B to ask questions around the purpose of the payment, the checks she'd undertaken, whether she was being advised by a third party and whether she'd received any withdrawals, and with the information it should have realised Miss B was likely falling victim to an elaborate investment scam through somebody she met on a dating app.

They said Miss B hadn't been coached to lie and so Monzo could have identified that the payment had the typical hallmarks of a dating scam, and so it should have explained how scams can look and feel, how they operate and the fact that money is paid to a genuine cryptocurrency exchange didn't mean the money was safe.

Our investigator thought the complaint should be upheld in part. She agreed the £20,000 payment should have been flagged, so Monzo had missed an opportunity to intervene in circumstances which could have prevented her loss. But she thought the settlement should be reduced for contributory negligence because Miss B had been promised unrealistic returns and didn't check the investment company to which she was sending such large funds. She also noted Miss B had concerns around how quickly the scammer had declared his feelings and had told her to lie about why she wanted the loan. So, she thought the settlement should be reduced by 50% for contributory negligence.

Miss B's representative has said the settlement shouldn't be reduced by 50% because she did due diligence and was feeling stressed at the time of the scam because she was facing redundancy, which would have affected her judgement. They've said if Monzo had done what was expected of it, the spell of the scam could have been broken.

Monzo has said it would be prepared to pay 50% from the third payment onwards arguing Miss B had applied for the account limit to be increased on two occasions, each time stating the increases were for home improvements.

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 conclusion as our investigator. And for broadly the same reasons. I'm sorry to hear that Miss B has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, like the one Miss B says she's fallen victim to, in all but a limited number of circumstances. Monzo had said the CRM code didn't apply in this case because the payments were transferred to an account in Miss B's name, and I'm satisfied that's fair.

I'm satisfied Miss B 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Miss B is presumed liable for the loss in the first instance.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk unregulated investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods

that were arguably unethical and/or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

I've carefully considered the circumstances, and I am persuaded this was a scam. But, although Miss B didn't intend her money to go to scammers, she did authorise the disputed payments. Monzo is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

I've thought about whether Monzo could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Monzo had an obligation to be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Miss B when she tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Monzo to intervene with a view to protecting Miss B from financial harm due to fraud.

The payments didn't flag as suspicious on Monzo's systems. I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Miss B normally ran her account, and I think they were. All the payments were to a legitimate cryptocurrency exchange company, but the first payment was for £20,000 which is very high, especially as there were no payments out of the account in the three months before the start of the scam period. Monzo said it was prepared to refund Miss B 50% from the third payment onwards, however I think it should have intervened when she made the first payment.

I would expect Monzo to have contacted Miss B to ask some probing questions around the purpose and circumstances of the payments and to have provided a full scam warning. Based on the fact she lied when she took out the loan and she told Monzo the account increases were for home improvements, our investigator was concerned that Miss B wouldn't have told the truth if she was asked questions about the payment. However, the loan application required her to answer standard questions to identify the purpose of the lending, which isn't the same as being asked probing questions about a very high-risk payment.

And even if she wasn't entirely open, this was a very large payment to a cryptocurrency merchant from an account that hadn't been used in the three months prior and I would expect Monzo to have been very clear about the fact the payment was very high risk and that it was very common for scammers to tell victims to lie to their bank. I would also expect it to have warned her that the existence of a third party was a red-flag and that it wouldn't be usual to take investment advice from someone she'd met online. It should also have asked her why she was paying a cryptocurrency merchant having said the account increases were for home improvements.

Miss B wasn't honest when she took out the loan, but I don't think it follows that she wouldn't have listened to advice from Monzo about the inherent risks associated with cryptocurrency investments. She was investing a lot of money and I haven't seen any evidence she was keen to take risks, particularly as she was saving for a deposit for a house. There's also evidence that she thought the relationship with the scammer was moving quickly and she

hadn't even met him, so I don't think she was under his spell to the extent that she would have ignored a strong warning and advice from Monzo about the red flags she should be looking out for.

Miss B didn't have a history of high-risk investing and I think that if she'd had any inkling this might be a scam, she'd have realised she'd been communicating with a scammer and she most likely would have reconsidered her decision to make the payments. Consequently, I think it missed an opportunity to intervene and prevent the scam. So, it should refund the money she lost from that date onwards.

Contributory Negligence

There's a general principle that consumers must take responsibility for their decisions and conduct suitable due diligence. I understand Miss B was worried about being made redundant, but this isn't an excuse for failing to take reasonable care that the investment wasn't a scam.

In total, Miss B paid £90,000 on the strength of what she was told by someone she'd recently met online and who she'd never met. While I accept this was a sophisticated scam and that Miss B had no prior experience of cryptocurrency, I think it was unreasonable for her to have gone ahead with the investment, particularly as the scammer advised her to lie to obtain a loan and had supposedly given her money towards the investment, which was wholly unrealistic and should have raised concerns.

I've stated above that Miss B had reservations about the fact the relationship was moving so quickly and that I think this means she'd have listened to a warning. Equally, the fact she went ahead notwithstanding she had reservations about the relationship means she didn't take reasonable steps to protect herself against the risk of fraud.

So, even though I think Monzo should have intervened when she made the first payment and that this represented a missed opportunity to have prevented her loss, I agree with our investigator that the settlement should be reduced to reflect the fact Miss B ought reasonably to have questioned what she was told by the scammer and that her failure to do so contributed to her own loss.

My final decision

I uphold this complaint and direct Monzo Bank Plc to pay

- £90,000 for disputed payments made between 20 September 2022 and 28 September 2022. This settlement should be reduced by 50% to reflect contributory negligence.
- pay 8% interest on funds transferred into the Monzo account from another account in Miss B's name from the date of payment on until the date of settlement.
- pay the savings account interest on funds from the Monzo savings account from the date of the payments until the date of settlement.
- pay the interest that has been applied to the loan.
- pay 8% interest on the payments Miss B has made to the loan.
- no interest to be paid for the payments funded by loans from friends and family.

*If Monzo Bank Plc deducts tax in relation to the interest element of this award it should provide Miss B with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 27 October 2023.

Carolyn Bonnell
Ombudsman