

The complaint

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

What happened

In November 2022, Mr S came across an advert for an investment company online. He says he had been thinking about investing, and so provided the company with his contact details. Mr S received a call the next day and was initially asked to pay £100 for training, which he paid from an account with another bank.

After some training sessions, the investor training him then told Mr S he needed to upgrade his account by sending £5,000 to a cryptocurrency exchange. Mr S tried to make this payment from his Monzo account, but it was blocked. Monzo contacted Mr S to ask some questions about the payment and warn him about possible scams. But ultimately, his account was unblocked and Mr S was able to make the payment again.

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

The scam was uncovered after Mr S asked to withdraw his money from the investment company. Mr S says the investor he was speaking to initially tried to persuade him not to withdraw, and then said he could make more lucrative trades if he left his money with the company. But Mr S then contacted the building the investment company had given as its address and was told it was a scam. He then reported the payment to Monzo and asked it to refund the money he had lost.

Monzo investigated but said it had followed its internal processes properly and offered Mr S appropriate advice before he made the payment. It also said it didn't think Mr S had taken enough steps to check who he was paying. So it didn't agree to refund the payment. Mr S wasn't satisfied with Monzo's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought Monzo could have done more after it blocked the payment to try to protect Mr S. But they also thought Mr S could have done more to prevent the loss. So they recommended Monzo refund 50% of the money Mr S had lost. Monzo didn't agree 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.

Is the payment covered by the CRM code?

Monzo initially assessed Mr S's claim under the CRM code, so I've first considered whether this code applies to the payment Mr S made.

The Lending Standards Board Contingent Reimbursement Model (the CRM code) is a voluntary code which Monzo has said it is committed to applying the principles of. It sets out a number of circumstances in which firms are required to reimburse customers who have been the victims of certain types of scam. But it only covers certain types of payments where a customer paid funds to another person for what they thought were legitimate purposes, but which were in fact fraudulent.

Mr S has said the payment he made was to buy cryptocurrency, which was then added to the balance showing on the trading platform he was given access to. I recognise that he only did this under the direction of the scammer. But the buying of cryptocurrency isn't one of the types of payments covered by the code. And the purchase of the cryptocurrency itself appears to have been genuine, as Mr S appears to have actually bought cryptocurrency before sending it on to the scammer. So the way the CRM code is written means that I don't think it applies to this payment.

Did Monzo do enough to protect Mr S?

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

Even though I don't think the payment Mr S made is covered by the CRM code, 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.

Monzo did identify a risk of fraud as a result of this payment. It then stopped the payment, blocked Mr S's account and contacted him to ask some questions and warn him about possible scams. So I've considered whether Monzo did enough to protect Mr S here.

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 S thought he was making.

After blocking his account, Monzo contacted Mr S via its in-app chat and asked him for some information about the payment. Mr S replied to say he was opening a trading account and had recently had some training in the area. And Monzo then asked a series of questions

about the investment and what research Mr S had done into it – which I think was appropriate.

But after Mr S answered these questions, Monzo knew that he was investing using cryptocurrency, hadn't made any similar investment before and was being walked through the process by his own financial advisor. And as these are all features of well-known investment scams, I think Monzo should then have had significant concerns that Mr S was the victim of a scam.

Monzo asked further questions about how Mr S first came into contact with the financial advisor. But Mr S's answers weren't particularly detailed, so I don't think they should have been enough to satisfy the concerns Monzo should have had. Given what it knew at that time, I think Monzo should have asked more probing questions about the person Mr S said was helping him, what exactly he was investing in, any returns he'd been told he'd made already and whether he'd been able to make any withdrawals from the investment. And I think Monzo shouldn't have unblocked the account until it got clear answers to these questions.

And if Monzo had asked more probing questions like these, I think it would have found out that Mr S had been contacted after seeing an advert online and hadn't made any withdrawals from the investment – which should only have increased its concerns.

As well as asking questions about the payment, Monzo gave Mr S a number of warnings about possible scams. And while these warnings did say legitimate investments never guarantee profit and aren't arranged over social media, and that scammers can fabricate websites to show fake earnings – which was relevant to Mr S's circumstances – there were also large parts of the warnings that weren't relevant to Mr S's circumstances and so will have made the warnings less impactful.

I also don't think the written warnings went far enough here. Given the information it should have got from Mr S, I think Monzo should have had significant concerns that he was the victim of a scam. And so I think it should have explained these concerns to Mr S – that, based on what he'd said, he was likely the victim of a scam. And it should have given him specific advice on steps he could take to avoid falling victim to this type of scam and checked that he had carried out these steps before allowing the payment to proceed.

Mr S discovered the scam himself by later doing further checks. So if Monzo had been clearer about its concerns and checks he should do – as I think it should have been, I think Mr S would have followed this advice, the scam would have been uncovered and he wouldn't have made the payment or lost the £5,000. I therefore think it would be fair for Monzo to bear some responsibility for the money Mr S lost.

Should Mr S bear some responsibility for the money he lost?

I've also thought about whether Mr S should bear some responsibility for the money he lost. And while I appreciate that this was a sophisticated scam, I think there were a number of things about it should have caused him significant concern.

Mr S first found out about the investment company from an advert on a video sharing website, which I don't think is a particularly reputable source for this kind of financial advice. Most of his communication with the investment company also appears to have been via an instant messaging app, which I wouldn't expect a legitimate investment company to use, and which one of the warnings Monzo showed him specifically warned against.

Mr S doesn't appear to have been sent a contract, terms and conditions or paperwork for the investment or the work the investment company was doing for him. And I'd expect a legitimate investment company to provide these, particularly when dealing with the amounts of money suggested here.

Mr S also doesn't appear to have done significant checks into who the investment company was, whether they were registered with the FCA – as Monzo's warnings suggested, and whether the people he was speaking to were connected to the company. From the correspondence I've seen, Mr S also doesn't appear to have a particularly clear understanding of the investments he's making, how they are generating profit or why he would need to send funds for the investment to a cryptocurrency exchange. And, given the amount of money he was trying to invest, I think it's reasonable to expect him to have done more to check these things before going ahead.

I think all these things should have caused Mr S significant concern about whether what was happening or what he was being told was true. And so I think it would be fair and reasonable for him to bear some responsibility for the loss he suffered.

I therefore think both Mr S and Monzo should bear some responsibility, and so it would be fair for Monzo to refund 50% of the money Mr S lost.

My final decision

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

- Refund Mr S 50% of the money he lost – totalling £2,500
- Pay 8% simple interest a year on that refund, from the date of the payment until the date of the refund

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 December 2023.

Alan Millward
Ombudsman