

The complaint

Miss R complains that Monzo Bank Ltd (“Monzo”) refuses to refund her losses after she fell victim to a scam.

Miss R is represented by a claims management company.

What happened

Miss R saw a link online for an advert for a cryptocurrency company. She saw some reviews that were positive, so she registered on the scammer’s website. She was put into contact with a financial adviser from the company who was to help her to invest and trade.

Miss R made payments from her Monzo account to a third-party exchange which I’ll call K. From there, she sent money onto the scammers trading platform. The company turned out to be a scam company and she lost the money she had invested in that company.

Miss R asked Monzo to return the money saying that, while it had flagged a transaction as suspicious, it hadn’t spoken to her over the phone, and hadn’t asked her suitable questions when it contacted her regarding one of her payments via a Monzo chat function. Miss R had been coached by her financial adviser (from the scam company) on what to say in response to the questions Monzo had asked. She felt that had Monzo called her and asked more appropriate questions, the scammer couldn’t have coached her in the way it did, and Monzo could have prevented her falling victim to the scam.

Monzo said it had flagged her second transaction as suspicious and asked her sufficient questions, but the answers given were not true – so it was not able to discover the scam. It felt that it acted in good faith, but Miss R had been dishonest. It felt it had done nothing wrong and should not be held liable for the losses.

Unhappy, Miss R referred the complaint to this service. One of our investigators looked into the complaint and felt that Monzo should refund the final payment with a 50% deduction for contributory negligence. Our investigator felt that Monzo should have intervened in the final payment as it was larger than her previous ones and Monzo should have asked questions about it. She felt that if Monzo had called her to discuss this transaction, it would have discovered the scam and prevented the loss. But she felt Miss R should also be held liable for 50% of the losses as there were signs this was a scam which she ought to have recognised. She also agreed Miss R had misled Monzo with her answers.

Monzo didn’t agree. It re-iterated that it had done nothing wrong, that even if it had called Miss R, she would have provided dishonest answers like she had done previously in the chat function. Overall, Monzo didn’t think it could have prevented the loss and didn’t feel it should be held liable for the losses.

As an agreement couldn’t be reached, the complaint was passed to me.

In my provisional decision of 3 July 2023, I set out why I was minded to not upholding the complaint. I invited both parties to provide any further submissions they may wish to make

before I reached a final decision. Monzo accepted the provisional decision while Miss R's representative made some additional comments which I'll address below.

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 my provisional decision I explained the following:

To begin with, where customers authorise payments from their accounts, businesses such as Monzo are under an obligation to process such transfers. If consumers authorised the transactions, the starting point is that they're responsible. To be clear, Monzo did not scam Miss R and it is not the perpetrator of the scam.

However, financial businesses also have a duty to try to prevent their customers falling victim to scams. Businesses therefore need to strike a balance between intervening in payments to prevent scams or financial harm against the risk of unnecessarily inconveniencing or delaying legitimate transactions.

In order for me to uphold a complaint of this nature, and hold Monzo liable for the losses instead of Miss R, I'd need to be satisfied that Monzo failed in its duty to protect Miss R in some way, and that if it had instead done what it should have done, this either would have stopped the losses from occurring in the first place or helped to mitigate the losses once notified of the potential scam (by retrieving the money for example).

Miss R's first payment was only £20, and all parties appear to agree that this payment was so small (and otherwise unremarkable), that we wouldn't expect Monzo to intervene. The second payment Miss R sent was for £3,000 paid on 21 February 2022. Usually, in the absence of any other concerning factors, in a case like this, I don't think this sum is large enough alone to have expected Monzo to intervene. However, Monzo's systems did flag this transaction as suspicious and it did contact Miss R about it before processing it.

Monzo didn't call Miss R but spoke to her via a chat function. This conversation took over two hours and Monzo asked her (amongst other things), what research she'd done, what her experience in cryptocurrency was, whether the cryptocurrency account was in her name and whether she was being assisted by any third parties. Miss R's responses included:

"I generally researched online and have been interested in investing when I had some funds to do this"

"I haven't had any help from anyone on this".

Monzo asked her to confirm again whether she'd been contacted or assisted by a third party

She said: "/ am working for myself and not engaged in any help."

Having a manager or financial advisor or a coach is a typical theme of this type of scam, so this is likely why Monzo was asking this question. Monzo also asked Miss R twice and both times Miss R was dishonest in her answers. I understand she was being coached by the scammer, but I have to assess what Monzo knew and did at the time and I think its intervention via a chat function was proportionate given the sum at risk. And based on Miss R's answers, I don't think it was unreasonable for Monzo to have not discovered the scam at this stage. So, I don't think Monzo failed in its duty of care during the intervention and I don't think it should be held liable for this loss or the one before it.

Before processing this payment Monzo also gave Miss R this warning.

“...if you've provided us with any misinformation across our chat that results in you sending a fraudulent payment, we will not be able to refund you for the money lost.”

On 2 March 2022, Miss R sent the scam company her final payment of £5,020. Monzo says this payment didn't flag as suspicious given its earlier dealings with Miss R. Our investigator felt given the amount of money now being sent, and that it was sent shortly after the £3,000 payment, Monzo should have intervened again and asked more probing questions on the phone. Our investigator also felt that it ought to have warned her that a legitimate company would not tell her to be dishonest with her bank and that Monzo could have discovered the scam at this stage. As she thought Monzo could have prevented this payment from being sent, she felt Monzo should refund 50% of the payment.

However, based on everything I've seen, I'm afraid I don't agree. By the time Miss R made the payment of £5,020, the payee had been established as this was the third payment being sent. Monzo had already satisfied itself that Miss R was not at risk of financial harm as she'd said she was acting independently. So, I think given the facts available to Monzo, it had less reason to be concerned.

But even if Monzo had contacted Miss R on the phone and spoken to her, in line with what we normally would expect from Monzo, for a sum of this amount, I don't think an intervention would have discovered the scam. By this time Miss R had already been coached by the scammer not to mention their involvement. Miss R was happy with how her investment was performing and she didn't have any concerns and hadn't recognised any risks of being scammed. Like Monzo says, I think the conversation on the phone would have mirrored what she had said on the chat function. I also have to bear in mind that Miss R had, by her own admission, built a strong rapport with the scammer. They'd had several informal conversations about their family and friends and Miss R had also planned to go out for drinks with the scammer.

Monzo had also previously warned her of the risks of providing incorrect information and it did not alter her behaviour in any way. So, I don't think given the trusting relationship she had developed with the scammer, that any further warnings would have convinced Miss R to behave any differently.

I don't think it's likely that given Miss R's state of mind at the time, the trust that she had with the scammer and the coaching she'd received during the previous discussion, that she would have suddenly been forthcoming with the truth. I think it's more likely that she would have continued to mis-lead Monzo as she'd been told to by the scammers. So, I don't think an intervention here would have discovered the scam or stopped Miss R from sending this amount of money at this time.

Monzo also tried to retrieve the money from the exchange after being alerted to the scam but was told nothing remained. So, overall, I don't think it's fair for Monzo to be held liable for the losses.

I'd like to clarify that I believe Miss R has genuinely been the victim of a sophisticated scam. And she likely gave the answers to Monzo because of the faith that she had in this scammer. I have no doubt she hasn't just suffered financial losses but also suffered a significant amount of distress to be deceived in this way by someone she clearly trusted. I'm very sorry that she's fallen victim to this scam. However, as I've explained above, Monzo did not scam Miss R and I don't think it could have prevented the losses here. So, I don't think it's fair to hold it liable for the losses she has suffered.

Miss R's representative re-iterate that Monzo ought to have contacted Miss R during the £5,020 payment. They add that Monzo could have asked more specific and probing questions around whether she was being assisted by a third party and also provided more context as to why they were asking that question – and how cryptocurrency scams work.

I do understand Miss R's representative's point of view and appreciate that businesses like Monzo are expected to be aware that consumers sometimes get told to lie and ask more probing questions if they feel there is a risk a consumer may be lying or being coached to lie. It's also very useful to give consumers context and explain legitimate companies will not tell consumers to lie to their bank. Navigating these sorts of interventions isn't an exact science and there will always be other questions that could have been asked. Business have to balance being thorough whilst being careful not to interrogate their customers who may be carrying out legitimate transactions.

In my opinion, Miss R was very clear and determined in her answers during the chat, at one point saying she didn't feel she had to disclose information about her private matters but did so begrudgingly because she wanted to proceed with the transaction. And, bearing in mind Miss R's state of mind at the time, how deeply trusting she was of the scammer, and the close friendship she appeared to have built with them, I don't think it's likely that she would have disclosed the truth to Monzo even if it had asked more probing questions. By this point she'd been coached to lie, and I've still got no reason to doubt that she would have continued to answer dishonestly on the phone, as she did so in the chat.

So, overall, while I have thought carefully about Miss R representative's comments, based on the particular circumstances of this case, I'm still not persuaded that its likely Monzo would have discovered the scam during an intervention call, and prevented the loss. So, I am still of the view that Monzo shouldn't be held liable for the loss

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 17 August 2023.

Asma Begum
Ombudsman