

## The complaint

Mr W complains that Monzo Bank Ltd won't reimburse the money he lost to a scam.

## What's happened?

Mr W has fallen victim to a cryptocurrency investment scam.

In summary, he's explained that he came across a company I'll refer to as 'T' whilst using a popular social media platform – T was featured in a well-known newspaper's story setting out how successful the company was in cryptocurrency trading. He did some research and saw that T had positive online reviews, so he reached out to T. Mr W didn't have any investment experience, but T told him that he could start with a small investment, and he says this gave him confidence in the company. He made a couple of small investments and was given access to a trading platform which looked professional. He could see his investments performing well and he was able to withdraw some profit to his bank account (£70 on 8 February 2022), which assured him that the investment was legitimate before he went on to invest larger amounts. Mr W sent the following payments to T from his Monzo account, via a cryptocurrency wallet held in his own name:

Date of payment	Amount
7 February 2022	£5
7 February 2022	£30
9 February 2022	£1,000
17 February 2022	£5,000
22 February 2022	£10,000

When Mr W attempted to send T a further payment via his cryptocurrency wallet, Monzo intervened, and it became apparent that he'd fallen victim to a scam T was operating.

Mr W says that the payments to T were out of character – he usually only made small transactions for everyday spending, and he never sent any funds to cryptocurrency exchanges. But he sent a lot of money to T via his own cryptocurrency wallet within a short timeframe following large deposits into his account (including a loan credit). He also repeatedly drained his account balance in making the disputed payments. In the circumstances, Mr W believes that Monzo should've intervened sooner to prevent the scam and he says that an earlier intervention would likely have been successful because:

- When Monzo did intervene, it became apparent that he'd fallen victim to a scam, and he didn't make any further payments to T.
- The scam had the hallmarks of a typical investment scam.
- The Financial Conduct Authority ('FCA') issued a scam warning about T on 4 February 2022.

Our investigator considered all the evidence and found that Monzo should've intervened with the £5,000 payment Mr W instructed on 17 February 2022. He thought it likely that Mr W's loss of that payment, and the £10,000 payment he instructed later, would've been prevented if Monzo had intervened as it should. So, he recommended that Monzo reimburse Mr W with

£15,000 and pay interest at the originating account rate from the date of loss to the date of settlement.

Mr W accepted our investigator's findings, but Monzo did not. In summary, the bank argued that:

- It was not necessary for it to intervene with the £5,000 payment instructed on 17 February 2022.
- It is conjecture that it could've established Mr W was falling victim to a scam if it had intervened sooner – there is no evidence to that effect.
- Mr W didn't take sufficient steps to protect himself from financial harm.
- There was no loss from Mr W's Monzo account as the payments were made into his own cryptocurrency wallet before they were lost to T.

Mr W's case against Monzo has now been passed to me to decide.

### **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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulator's rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

It's common ground that the payments Mr W made to the scam were 'authorised' under the Payment Services Regulations. Monzo had an obligation to follow Mr W's payment instructions, and Mr W is presumed liable for his loss in the first instance. But that's not the end of the story. There are circumstances in which a bank should take additional steps before processing a payment, or in some cases, decline to make a payment altogether, to help protect its customers from the possibility of financial harm. I consider that Monzo should:

- Have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering and the financing of terrorism.
- 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 (amongst 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 its customers from the possibility of financial harm.

Cryptocurrency scams often involve money passing through more than one account and they were not uncommon at the time. I think Monzo would've been aware of this. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018. By early 2022 when the scam payments were made, I think Monzo ought to have had time to digest these warnings and put mechanisms in place to detect and prevent this type of fraud. So, although Mr W's loss may not have predominantly arisen from the initial transfers, I'm satisfied they ought to have been within the contemplation of, and foreseeable to, Monzo. And I'm satisfied that Monzo can fairly be held responsible for the loss if it could have prevented it.

None of the scam payments set out in the table above triggered Monzo's fraud detection systems. I've looked at Mr W's Monzo account statements and I don't think it's reasonable to expect the first three scam payments to have triggered the bank's fraud detection systems – they were relatively low-value, and I don't think they were sufficiently unusual or suspicious, in consideration of the normal account activity, to have reasonably caused the bank concern. So, I'm not persuaded that Monzo ought to have intervened with the first three scam payments or that the bank ought to have prevented them from being made. But I think the final two scam payments were out of character for Mr W's account and I'm satisfied that Monzo ought to have intervened with them. Although the final two scam payments went to a now established payee, they were significantly higher in value than the usual payments Mr W made from his account (he tended to use his account for very low-value transactions), both payments were instructed following a corresponding credit (one of which was a loan) and they both drained the account balance. Overall, I think there was enough about the final two payments to reasonably expect the bank to have had concerns.

By early 2022, I think Monzo ought to have had a good enough understanding of how cryptocurrency scams work – including that the customer often moves money to an account in their own name before it is moved on to a fraudster – to have been able to identify the risk of harm from fraud. In fact, Monzo demonstrated its understanding and ability to identify the risk of harm from fraud when it eventually intervened with the payments Mr W was making to T. With its industry knowledge, I think Monzo ought to have asked Mr W some probing questions about the £5,000 payment made on 17 February 2022 and given him information about the prevalence and typical features of cryptocurrency scams before processing the payment. If the bank had done enough at this stage – as it did later – I think it would most likely have become obvious to the parties that there was a risk of harm from fraud and the scam would've unfolded without that £5,000 payment, or any subsequent payments being made.

Monzo has argued that it is conjecture that it could've established Mr W was falling victim to a scam if it had intervened with the £5,000 payment, but I don't agree – I'm persuaded by the evidence I've seen that the bank would most likely have uncovered the scam if it had intervened at that stage. I'm satisfied that the intervention the bank did carry out on a payment to T indicates that the bank could've prevented the scam sooner if it had intervened sooner. I think it's likely that Mr W would've answered the bank's questions about the £5,000 payment, if they'd been asked, in the same way he answered the bank's questions about another payment instructed to T just a few days later. I've also taken into account that there was an FCA warning about T in place when the £5,000 payment was instructed.

I acknowledge that the main perpetrator here is the fraudster. But overall, I don't think that Monzo did enough to protect Mr W from financial harm. I'm persuaded that the bank ought to have intervened with the payments Mr W was making to T at an earlier stage (17 February 2022) and, if it had, the bank would have been able to prevent the scam (as it did with an intervention on a later date) without the £5,000 payment, or any subsequent payments being made. So, I'm satisfied that it's fair for Monzo to reimburse the £5,000 and £10,000 payments Mr W made to T on 17 and 22 February 2022 respectively.

I've considered whether Mr W should bear some responsibility for his loss by way of contributory negligence but, overall, I don't think there was any contributory negligence on this occasion. Of course, there is more Mr W could've done to protect himself with the benefit of hindsight and relevant education about fraud and scams and how to protect himself from them from the bank – for example, he could've checked the FCA register. But he's explained that:

- He had no prior investment experience.
- T was featured in a well-known newspaper's story about cryptocurrency trading.

- He did some research and saw that T had positive online reviews.
- He was given access to a trading platform which looked professional.
- He started with a couple of small investments, before going on to make the £5,000 and £10,000 payments to T. He could see his investments performing well and he was able to withdraw some profit to his bank account on 8 February 2022 (I've seen evidence of this), which assured him that the investment opportunity was legitimate before he went on to invest larger amounts.

Overall, I think there was enough to satisfy a reasonable person in Mr W's position of T's legitimacy.

### **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint in part and instruct Monzo Bank Ltd to reimburse the £5,000 and £10,000 payments Mr W lost to the scam on 17 and 22 February 2022 respectively and pay interest at the originating account from the date of each loss to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 31 August 2023.

Kyley Hanson  
**Ombudsman**