

The complaint

Mr K complains that Monzo Bank Ltd won't refund over £4,000 he lost to an investment scam.

What happened

Mr K is represented in this complaint by a solicitor but for simplicity I will largely refer just to Mr K, even when referencing what his representatives have said and done on his behalf.

Mr K fell victim to a cryptocurrency investment scam after a 'friend of a friend' told him they had made good profits and could help him do the same. This individual told him to open an account with a cryptocurrency trading platform, and Mr K then took out a loan (also with Monzo) which he used to fund the £4,015 of payments he made to that platform. I understand his funds were then transferred elsewhere under the guise of placing 'trades'.

Mr K says he had access to an investment platform which appeared to show that he had made a profit on his investments. But when Mr K said he wanted to withdraw his profits he was told he'd need to make further payments, and he became suspicious. When he raised his suspicions with the scammer they blocked his access to the investment platform and blocked any further contact from him. Mr K contacted a third-party representative to see if he could get his money back, and it's at this stage that the scam was reported to Monzo.

Ultimately Monzo did not agree that it had any obligation to refund any of the payments to Mr K. It said it provided appropriate warnings about scams, and that Mr K had not taken appropriate steps to verify the legitimacy of the investment. Mr K remained unhappy, so he referred his complaint to our service.

Our investigator upheld the complaint in part. They thought that Monzo ought to have questioned Mr K about the fourth payment he made, for £3,700, as by then a pattern was emerging that indicated Mr K could be at financial risk. The investigator felt that more detailed questioning from Monzo at that stage would likely have uncovered the scam. So they said that Monzo should refund the money Mr K had lost from this payment onwards, less a deduction of 50% in recognition of Mr K's own contributory negligence.

Monzo disagreed, so the complaint has been passed to me for a 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.

It isn't in dispute that Mr K has fallen victim to a scam here, nor that he authorised the disputed payments he made to the scammer (either from his debit card or through the faster payments he made). The payments were requested by him using his legitimate security credentials provided by Monzo, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.

However, I've considered whether Monzo should have done more to prevent Mr K from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character or was indicative of a common scam.

Mr K made five payments, on the same day, to a new payee. Two of these were card payments but the rest were transfers, and they were all to a cryptocurrency platform, which Mr K did not appear to have used before. The first few payments were relatively low - £5, £20 and £280 – and given their low value I don't think these should necessarily have been flagged as unusual or potentially suspicious by Monzo.

But the fourth payment was much higher - £3,700 – and while the size of the payment alone may not have been wholly unusual for Mr K's account (he had made larger transfers in the period before the scam) I think the situation as a whole at this stage should have rung alarm bells for Monzo. By this payment Mr K had made four payments of increasing size, in very quick succession, to a new payee associated with cryptocurrency, and this had all been preceded by him taking out a loan which he then used in almost its entirety to fund these payments to the cryptocurrency platform.

I say this because banks such as Monzo ought to have a good enough understanding of how these scams work to have been able to identify the risk of harm from fraud, and the pattern that was being established here had some clear hallmarks of a potential scam.

Monzo has said that it provided a written warning, but that warning was relatively generic, it didn't set out details of what any specific scam might look like to the customer or include any questions Mr K had to answer about what he was doing. And in any case, this warning appears to have only been provided for the very first payment – for £5 – and not for the £3,700 payment which I feel should have been flagged as potentially suspicious by Monzo.

And if Monzo had asked proportionate questions when Mr K made the £3,700 payment request. I see no reason why Mr K wouldn't have told the truth. If Monzo had asked how Mr K found out about the investment, what he understood about the investment and the potential returns, and if Monzo had warned Mr K about the risks involved in trading in cryptocurrency and the prevalence of scams in this area I think it's more likely than not the scam would have come to light and some of Mr K's loss would have been avoided.

Monzo does not believe it is liable for Mr K's loss as it said it occurred from his cryptocurrency account rather than his Monzo account. However, Monzo is aware of our general position that it is fair and reasonable for payment service providers to take steps to protect customers from the risk of financial harm due to fraud.

So while I understand that the cryptocurrency platform is a legitimate trader, I think Monzo still should have provided a detailed scam warning in light of all the information known to banks about the increasing number of scams associated with cryptocurrency. And even if an intervention by Monzo identified that the payment was going to Mr K's own cryptocurrency account the conversation should not have stopped only on the basis that the money appeared to be going somewhere 'safe' and within the consumer's control.

I say this because Monzo ought reasonably to have had a good enough understanding of how these scams work to know that the consumer often first purchases a crypto asset or sends money to a platform where the money is subsequently moved on to or taken by the fraudster.

So with all of this in mind, I'm satisfied that had Monzo asked relevant questions of Mr K, it would have been apparent that he was falling victim to a scam. In other words, but for Monzo's failure to make further enquiries, it would have been on notice that Mr K was potentially going to suffer financial harm from fraud and would more likely than not have been able to prevent Mr K's further loss.

I do though agree with our Investigator that Mr K should bear some responsibility for his loss here.

Mr K has told us the investment opportunity was presented to him by a friend of a friend who he had never met in person, and he doesn't appear to have done any other checks or research to ensure that the opportunity being presented to him was legitimate. With this in mind I'm satisfied a 50% deduction is fair and reasonable in the circumstances.

I've also thought about whether Monzo could have done more to recover the funds after Mr K reported the fraud. However, in these circumstances, Mr K transferred money to his own account before the funds were subsequently transferred on to the scammer. So Monzo wouldn't have the same obligations as the bank responsible for the eventual transfer to the scammer's account. I also know, from experience of these kinds of cases, that scammers invariably will move the proceeds of their scams on very quickly, to avoid them being recalled. So any delay in a scam being reported, means that the prospect of recovery is very slim. And in this case, Mr K did not report the scam to Monzo until over six months after the payments were made. With all of this in mind, I don't consider that Monzo could have done more to recover the money that Mr K has lost.

So, in summary, I consider when Mr K made the fourth transfer, Monzo could have done more to protect him from the risk of financial harm. Had Monzo contacted Mr K directly and asked some open questions about what was happening, I'm persuaded it is more likely than not the scam would have come to light, and Mr K wouldn't have lost out on the £3,710 he then went on to transfer. But I do consider that Mr K could have done more to protect himself from this loss, so I consider that liability for the loss should be shared. So I consider it fair and reasonable for Monzo to refund 50% of that amount to Mr K, along with interest at our standard compensatory rate of 8%.

Putting things right

To resolve this complaint Monzo should:

- Refund 50% of the fourth and fifth payments – representing a refund of £1,855
- Pay 8% simple interest per annum on this amount, calculated from 2 April 2022 until the date of settlement.

My final decision

I uphold this complaint in part. Monzo Bank Ltd should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 23 November 2023.

Sophie Mitchell
Ombudsman