

The complaint

Miss S complains that Monzo Bank Ltd (Monzo) wouldn't refund money she lost in an investment scam.

What happened

What Miss S says:

Miss S is represented by a third-party claims firm.

She is a student living on a student income. She inherited some money from her late mother after she sadly passed away.

Miss S had a contact (who I will call 'A') on her snapchat who advertised bitcoin investment – he showed he had made a lot of money by investing in bitcoin. Miss S messaged one of her friends who said he knew A and said he was legitimate. A then gave Miss R a link to create an app in order for her to make the transfers to a crypto platform. The app was titled 'BitXXX' (which I will call 'B').

Miss R conducted research into BitXXX and saw it had good reviews. She was inexperienced as an investor but felt the opportunity was a genuine one. She completed various KYC and anti-money laundering checks – which also suggested B was legitimate. She made an initial payment of £25 and then withdrew it – which also suggested to her that B was legitimate. Then, Miss R made four further payments totalling £9,800 on 18 January 2023:

Date	Time	Method	Payee	Amount
18 January 2023	11.55	Faster Payment	BitXXX	£25 (repaid)
18 January 2023	12.27	Faster Payment	BitXXX	£2,000
18 January 2023	14.07	Faster Payment	BitXXX	£2,400
18 January 2023	15.41	Faster Payment	BitXXX	£2,000
18 January 2023	16.01	Faster Payment	BitXXX	£3,400
Total				£9,800

Miss S said she could see the live trade information and that bitcoin investments were doing well. The website seemed authentic. Miss S realised she had been scammed when the scammer (A) then ignored her and stopped replying to her snapchat messages. Miss S then contacted her friend and he said his snapchat had been hacked – so it wasn't him who had supported A. Miss S had been sending money to a cloned website, and not to the bitcoin

company she thought she was investing with.

Miss S said Monzo should refund the money. She said Monzo should've been aware of the prevalence of such scams, and intervened, but didn't. She reported the scam to Monzo on 19 January 2023.

Because of what happened, Miss S lost all the money her mother left to her – so she feels she's let her mother down. She's been having sleepless nights and is now having to look for part time work (alongside her studies) to enable her to live.

What Monzo said:

Monzo said they'd reviewed the scam and didn't refund any money. The money was sent from Miss S' Monzo account to her own crypto wallet. And so Miss S should get in touch with that provider – as it was from there that the transfers were made to B. Because Monzo took until 7 April 2023 to provide a response, they paid compensation of £20.

Our investigation so far:

Miss S brought her complaint to us. Our investigator said Monzo should refund the last two payments of £2,000 and £3,400, plus 8% per annum simple interest. She said:

- The Contingent Reimbursement Model (CRM) code doesn't apply as Miss S sent money to an account in her own name.
- The first few payments didn't look concerning or out of character – and we can't expect every payment to be reviewed.
- But by the fourth payment (of £2,000), Monzo should've intervened. By then, it was the fourth consecutive payment to a crypto currency platform and collectively Miss S had then sent £6,400 to B – and on the same day.
- If Monzo had then intervened, it was likely the scam would've been uncovered. Because the payments were to a crypto platform, further questions about that should've been asked, e.g. how she came about the opportunity.
- This would've revealed Miss S had no investment experience; that she was introduced via snapchat; and this was a crypto investment. Monzo were well positioned to provide effective scam warnings, but didn't.
- She didn't think that Miss S should bear some responsibility by way of a deduction.

Miss S accepted the findings, but Monzo didn't agree. They said:

- They couldn't be expected to intervene in every payment.
- It was unwise to rely on a snapchat introduction to make investments.
- The offer was too good to be true.
- Miss S was making payment to her own account - her crypto wallet. And the losses she incurred were because of the payments from her wallet to B.
- Intervention wouldn't have made a difference as Miss S had been led to believe she was dealing with a legitimate crypto platform.

The complaint has therefore come to me to make a final 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.

I'm sorry to hear that Miss S has lost money in a cruel scam. It's not in question that she authorised and consented to the payments in this case. So although Miss S didn't intend for the money to go to a scammer, she is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider 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 make 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.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't apply in this case. Monzo hasn't signed up to the Code, but they follow its principles. That said, it applies to faster payments made to another UK beneficiary– and in this case, the payments were made by Miss S to her own crypto wallet. So it doesn't apply in this case. I have therefore looked at this complaint using general Authorised Push Payment considerations.

I need to decide whether Monzo acted fairly and reasonably in its dealings with Miss S when she made the payments, or whether it should have done more than it did. I have considered the position carefully.

The first consideration here is: if the payments were of a sufficient size and was out of character with how Miss S normally used her account – then we would expect Monzo to have intervened and contacted Miss S.

I looked at Miss S' account from June 2022, and it's fair to say that the payments were unusual compared to the way in which she normally used her account – which was to make day to day expenditures of low value. There were some faster payments, but all were for, or below £1,000.

Payments £25, £2,000 and £2,400:

I've then considered the initial payments and here - there's a balance to be struck: Monzo has obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. So, in this case, I think Monzo acted reasonably in processing the first three payments.

Payments £2,000 and £3,400:

Monzo have argued that they didn't need to intervene in any of the payments, including the fourth and fifth payment – for the same reasons. But I don't agree. I say that because:

- The payments were to payee which was clearly associated with crypto investment; this was a red flag.
- By the fourth payment there was a pattern of a series of payments to the same crypto platform.
- They were all made in quick succession, on the same day, and within four hours of each other.
- They were each funded by transfers into the account from Miss S – and drained the account of funds each time.

Therefore these were all characteristics of a scam. And Monzo – as the expert here, should've been reasonably aware of that. There was enough going on – to suggest that Monzo ought reasonably be expected to have sent a tailored message to Miss S to highlight the potential scam – or call her. But they didn't.

If Monzo had done so, they would've likely found out that :

- The introduction was via snapchat.
- How she had been given the link to set up the app.
- Miss S was using all her money to invest.
- She had no experience of investing in crypto.
- She wasn't aware of the risks involved.

Having established these things, Monzo would've been well placed to advise Miss S of the risks she was taking. I've seen nothing in the correspondence between Miss S, A and B to suggest she'd been coached as to how to respond to any contact from Monzo – so I think it's reasonable to say that the scam would've been uncovered and the last two payments not made.

Contributory Negligence:

I've considered whether Miss S should bear some of the loss on payments four and five. I accept it was unwise to accept an introduction via snapchat. But other than that, I'm persuaded that Miss S did all the research she could.

She sourced online Trust Pilot reviews, and they were positive. Her friend vouched for A. But in this case – she was sent a link to set up an app which accessed a cloned crypto website which purported to be the genuine one.

Recovery:

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Monzo took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost funds. I couldn't see they did take any

action – although the online the chats with Miss S said they would. But because here – the funds were moved from Miss S' crypto wallet to B immediately she sent the payments, it's likely there was nothing Monzo could've done to get any money back in any case.

Putting things right

So, on balance, and in the circumstances of this complaint, I agree that Monzo should refund the fourth and fifth payments, plus interest at the statutory rate.

My final decision

I uphold this complaint. Monzo Bank Ltd must:

- Refund £2,000 and £3,400, plus interest at 8% per annum simple from the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 24 October 2023.

Martin Lord
Ombudsman