

The complaint

Ms M complains that Monzo Bank Ltd (Monzo) wouldn't refund money she lost in a scam.

What happened

What Ms M says:

Ms M is represented by a third-party claims firm.

In November 2021, Ms M opened an account with Monzo – as she was told it was easier to make payments and they were less likely to be questioned.

Ms M was employed as an accountant for several years but had left full time work. She was looking for ways to supplement her husband's income. She wanted a source of 'passive' income which would enable her to spend time with her young children and renovate the family home.

There are two scams for this complaint.

Scam (1):

In October 2021, Ms M was introduced to a Facebook group in which investors advised each other of trading opportunities. She was introduced to an investment firm (which I will call 'A') – and saw many posts from other investors as to how much money they'd made.

Ms M messaged A and was told it had been trading for five years. In messages with A, she was told that if she invested USD15,000, she would get back that amount plus USD25,000.

Ms M got help from a friend to move funds from her Monzo account to her crypto wallet with a payment service provider (which I will call 'B'). The funds were then moved by Ms M from B to the investment firm A.

On 4 November 2021, Ms M found that she couldn't move funds from B to A as B couldn't verify the account. The scammer A then advised her to use a different app to move funds from B to A, which she did.

Ms M was attracted by the opportunity to make profits and made four payments to her crypto wallet with B:

Date	Payee	Method	Amount
3 November 2021	Payment Service Provider - B	Faster payment	£10
3 November 2021	Payment Service Provider - B	Faster payment	£100

3 November 2021	Payment Service Provider - B	Faster payment	£35
4 November 2021	Payment Service Provider - B	Faster payment	£5,100
Total scam (1)			£5,245

On 5 November 2021, Ms M contacted A and said she'd not had confirmation that the funds had been received. On 9 November 2021, nothing had arrived and she contacted A again. On 13 November 2021, she asked to withdraw her profits. The scammer A said she would need to pay 20% of her capital as a charge. Ms M said she didn't have the money to do that and communications stopped. At that stage, she realised she had been scammed – alongside others in the Facebook group.

Scam (2):

A few days after scam (1), Ms M was invited to join another Facebook investment group. Many of the group had lost money in scam (1) and they shared information about their losses. She was introduced by a member of the group to another investment opportunity with another company (which I will call 'C'). She was provided with a link to a WhatsApp group in which people were sharing stories about how much money they'd made with C. Ms M decided to invest again to try to get back some of the money she'd lost in scam (1).

She opened an investment account with C and made three payments to a payment service provider ('D'), from where the payments were transferred to C. Three payments were made. The last one (£10,000) was made up of £5,000 from Ms M and £5,000 from her brother-in-law - who was encouraged to do so by the profits he thought Ms M was making.

Date	Payee	Method	Amount
21 November 2021	Payment Service Provider - D	Faster payment	£1,000
25 November 2021	Payment Service Provider - D	Faster payment	£1,000
27 April 2022	Payment Service Provider - D	Faster payment	£10,000
Total scam (2)			£12,000

In June 2022, Ms M found she couldn't log onto C's website anymore. Other members of the WhatsApp group found the same happened to them. Ms M realised she'd been scammed again.

Ms M says she's now struggling to pay bills because of her losses. She had had to borrow money from her family – which needs to be repaid. She is still struggling to come to terms with what happened – she considered herself a clever and educated person and now doubts her own judgements. She told us she sold the family home to recoup some of the losses.

Ms M says Monzo should've done more to protect her. She made a number of payments to two new beneficiaries. Firstly – a series of payments in less than a month; and then paid £10,000 in one transaction. If Monzo had contacted her, she would've thought twice about making the payments. She said all the money should be refunded, plus compensation of £500.

What Monzo said:

Monzo said:

- the payments were made to Ms M's own account – her crypto wallet. She then made payments to the scam investment companies. So – it's down to the digital wallet providers to consider refunding the money.
- The payments were authorised by Ms M and executed by Monzo in accordance with her instructions.
- Monzo provided scam warnings on its website.
- Monzo provided tailored warnings regarding the payments of £100 on 3 November 2021 and £1,000 on 19 November 2021, but Ms M still went ahead.
- Ms M didn't carry out sufficient due diligence on the two scam websites.
- Ms M invested in the second scam shortly after the first one – and didn't exercise caution in doing that.
- Several websites indicated that Facebook is susceptible to crypto scams. The two investment companies concerned had several reports about them – stating they were a scam.
- Ms M's letter of complaint gives little detail of what happened with the second scam.
- The size of the payments wasn't unusual, and they were low value.

Our investigation so far:

Ms M brought her complaint to us. Our investigator said the two larger payments of £5,100 and £10,000 should've been stopped by Monzo pending further questions of Ms M. But having said that, he didn't think intervention would've made any difference and Ms M would've gone ahead anyway. So – he said Monzo didn't need to refund any money.

Ms M didn't agree and asked that an ombudsman look at her complaint. She said:

- The payees indicated the payments were connected to suspicious investments.
- The real company (A) was a genuine trading company unrelated to crypto – so that would've been revealed if Monzo had intervened.
- Payments to a crypto wallet was indicative of a scam.
- Ms M didn't get any documentation – indicative of a scam.

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 Ms M 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 Ms M 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 Ms M 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 Ms M 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 were out of character with how Ms M normally used her account – then we would expect Monzo to have intervened and spoken to her (or contacted her) about them.

I looked at Ms M's account, and it's fair to say that the payments were unusual compared to the way in which she used her account. She only opened her account in November 2021 – I presume to make the payments in question. The only account activities are payments to Ms M's crypto wallets with B and D, and each time these were fed by like transfers into her account. Each payment drained the account of funds – to a nil balance.

But that doesn't mean we can reasonably expect Monzo to have intervened in every payment. I say that because 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. On that basis, in this case, I think Monzo acted reasonably in processing all the low value payments – of £10, £100, £35, £1,000, and £1,000.

But – as I’ve outlined - there were reasonable grounds for Monzo to intervene in the larger payments of £5,100 and £10,000. But – they didn’t. Monzo was the expert in such matters and if they’d intervened and contacted Ms M we would have expected them to ask open questions such as:

- Why are you making the payment? And who to?
- For what purpose?
- Where did the money come from that you’re investing?
- How did you hear about the investment?
- What do you know about bitcoin investing?
- How were you given the bank account details where the money was to be paid to?

But – I need to decide whether, if Monzo had intervened, would it have made a difference.

And on balance, I don’t think it would have and Ms M would’ve gone ahead anyway. I say that having reviewed the evidence:

- Ms M had been recommended to invest in scam (1) by her brother-in-law.
- And on the £10,000 payment on scam (2), her brother-in-law also participated (he contributed £5,000) – so she was encouraged by him.
- I reviewed the messages between Ms M and the scammer in scam (1). And I think it’s fair to say that Ms M seemed keen to invest. There were phrases such as “...*how do I go about investing?...Ok brilliant thanks....thanks for all your help I look forward to starting my (A) trading journey*”.
- I’m persuaded that Ms M was attracted by the apparent opportunity of making quick profits – she was told there was a return of USD 25,000 on an investment of USD15,000. And soon after that, she sent the first payment to A.
- I couldn’t see she got any confirmation of deposits on either scam – so she must have been keen to go ahead.
- Monzo did warn her about the risks on two payments. On 3 November 2021 (£100), Monzo messaged Ms M to say, “*you’re sending £100 to someone that could be scamming you*”. Ms M confirmed she’d read the warning and opted to continue.
- On 19 November 2021, Monzo messaged Ms M about the payment for £1,000 and warned “*Stop, don’t pay, it’s very likely this is a scam*”. But – Ms M went ahead with the payment. I’m persuaded that had there been further warnings (on the larger payments of £5,100 and £10,000) – she would likely have gone ahead on the basis that she’d confirmed she wanted to do so on the other payments.
- Ms M went into the second scam within days after realising she had been scammed in scam (1). This suggests to me that she was keen to go ahead and wouldn’t have been dissuaded by any intervention from Monzo.

Therefore, on the balance of the evidence I’ve seen, I don’t hold Monzo liable for the refund of any of the money paid by Ms M.

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. But here, as the funds were sent to Ms M's crypto wallet and then moved to the scammers by her, there wouldn't have been any funds to recover.

Ms M has lost a lot of money. She's explained why the money was important to her, and the impact her losses have had. I was sorry to learn of her circumstances. She will therefore be disappointed by my decision, but I'm not going to ask Monzo to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 25 October 2023.

Martin Lord
Ombudsman