

## **The complaint**

Mr L complains that Monzo Bank Ltd (Monzo) won't refund the money he lost to a scam.

## **What happened**

The details of this complaint are well known to both parties. So rather than repeat them all again here, I'll briefly summarise the key points.

In early 2022, Mr L saw an advert on YouTube for a company (S) offering trading in cryptocurrency, stocks and shares, and foreign exchange. He was interested in the returns advertised so provided his contact information. A broker from S followed up with him. Mr L says he looked up S and found positive and negative reviews, but was reassured when speaking to the broker. So he decided to invest. Unfortunately, S were operating a scam.

Mr L opened an account with Monzo around the same time. He didn't make any outward payments from the account for around one month. He then paid £100 to his cryptocurrency wallet, to purchase cryptocurrency to load on to S's platform. He then paid a further £5,900 the next day, then £4,00 around one month later. Unfortunately, these funds were all lost to the scam.

Later on, Mr L tried to withdraw his funds from S. The broker tried to dissuade him. When he insisted, they still wouldn't let him withdraw. He then realised he had been scammed. Supported by a professional representative, he complained to Monzo that it should have done more to protect him. But it didn't accept liability for his loss. So he referred the complaint to our service.

Our investigator didn't uphold this complaint. As this was a new account, they didn't think the payments looked uncharacteristic and so didn't think Monzo had cause to be concerned about the payments.

Mr L disagreed. He said the payment of £5,900 looked suspicious, so Monzo should have intervened. And if it had done so, it would have uncovered the scam.

In August 2023, I issued my provisional decision explaining I was minded to conclude Monzo should have uncovered the scam when Mr L made the payment of £5,900. To put things right, I proposed Monzo should refund 50% of the loss from that point onwards, plus interest.

I invited the parties to submit further comments or evidence. Mr L confirmed he had nothing to add, but Monzo disagreed with my findings. It said the £4,000 payment wasn't included in the initial complaint, so shouldn't be considered. It also disagreed that the £5,900 payment looked unusual, noting it was going to a wallet that belonged to Mr L. And it asked for a copy of any correspondence Mr L has provided of his interactions with the scammer – which I have shared in line with natural justice principles.

## **What I've decided – and why**

Before explaining my outcome, I want to clarify what I can consider within this decision.

As I have already explained to Monzo, while the £4,000 wasn't included in Mr L's initial complaint, our service made Monzo aware it was part of the scam, and part of Mr L's complaint, in November 2022. As such, Monzo has had its allocated time, as determined by the 'DISP' section of the Financial Conduct Authority handbook, to consider Mr L's complaint about this payment. I am therefore considering this payment within my determination.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, including considering the responses received to my provisional findings, I'm upholding the complaint. This is largely for the same reasons given in my provisional decision. So in explaining my decision, I'm largely repeating those reasons. But I've also included some additional points to respond to the particular issues Monzo highlighted in its response.

In line with the Payment Services Regulations 2017, Monzo is expected to execute authorised payment instructions without undue delay. It's not in dispute that Mr L was scammed. But nor is it in dispute that he authorised the payments. So the starting position is that he's liable for them.

But there are some situations where we believe that banks—taking into account relevant rules, codes and best practice—ought to have identified a fraud risk, so should have looked at the wider circumstances surrounding the transaction before making the payment. If Monzo failed to do so, and that failure led to a fraudulent loss, it might be fair to hold it liable.

As this was a new account, the investigator is correct that there was no account history to compare with, to give Monzo a benchmark for how Mr L usually transacts. But I do think it looks suspicious that the account hadn't been used despite being opened a month prior, then Mr L started making cryptocurrency payments. The pattern of the smaller initial payment, followed by a larger one, fits a known pattern of fraud. And at £5,900, the second payment was substantial.

In response to my provisional decision, Monzo said it's not unusual or suspicious for customers to open an account and then not use it immediately. I agree. But, without any account history to compare with, I think the second cryptocurrency payment ought to have looked concerning. It was high value, and it was the second payment to a new cryptocurrency merchant within one day. I therefore think Monzo should have been concerned that Mr L could be at risk from fraud at that point – so should have reached out to him find out more about the circumstances of the payment, to assess the fraud risk.

I've not seen anything to suggest Mr L had been coached on what to say if questioned about the payments. So I think he would have answered honestly – and I think Monzo would have realised, from his responses, that he was being scammed. The way S were advertised was suspicious. As were the returns he was told to expect, and the fact S were using remote access software to complete the trades for him. And crucially, the Financial Conduct Authority (FCA) had also issued a warning about S – which is something Monzo could have directed him to check.

If Monzo had explained to Mr L why it had concerns, and advised him on what he could do to check if S were legitimate, I therefore consider it likely that the scam would have been uncovered. And so his further losses would have been prevented.

Following my provisional decision, Monzo pointed out that the payments went to a wallet in Mr L's own name, which it feels made the payments appear less concerning. That is something I am aware of and have taken into account. But it's a well-established feature of cryptocurrency scams that they generally involve payments sent to wallets held by the customer before being transferred on. By the time of these payments, that is something I would expect Monzo to have taken into account as part of its anti-fraud measures.

I've also considered whether Mr L should hold some liability for his loss by way of contributory negligence. While he says he looked up reviews, he admits he found negative ones. I appreciate the broker may have explained these as reflective of the investment risk. But I've found reviews pre-dating these payments referring to S as a scam. I've also found that the FCA's warning about S appeared prominently when searching for the company. The returns offered also sounded too good to be true.

In the circumstances, I think Mr L missed some warning signs that ought to have been apparent to him that S might not be legitimate. Given that I also think Monzo could have prevented his loss from the second payment, I consider it fair to expect Monzo to refund 50% of his loss from that point.

That said, I don't think the first payment could have been prevented. And as it was transferred to Mr L's cryptocurrency wallet, then transferred on to the scam, Monzo couldn't have recovered the loss from the recipient. So I don't think Monzo holds liability for this payment.

### **My final decision**

For the reasons given above, I uphold this complaint and direct Monzo Bank Ltd to:

- Refund 50% of the money Mr L lost to the scam, via his Monzo account, from the second scam payment onwards. By my calculations, that comes to £4,950.
- Pay 8% simple interest per year on this amount, from the dates of payment to the date of settlement.
- If Monzo considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr L how much it's taken off. It should also give Mr L a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Monzo Bank Ltd must pay this compensation within 28 days of the date on which we tell it Mr L accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 29 September 2023.

Rachel Loughlin  
**Ombudsman**