

## **The complaint**

Mr E has complained that Monzo Bank Ltd won't refund the money he lost after falling victim to a scam.

## **What happened**

Mr E is represented in this complaint by a solicitor, for simplicity I will refer to Mr E throughout this decision, even when referencing what is representatives have said on his behalf.

In May 2021, Mr E saw an advert for a cryptocurrency trading platform on social media, he was interested in investing and so contacted an adviser at the platform to find out more. Mr E had seen client testimonials on the platform's website, and so was satisfied it was legitimate. Mr E was told he could expect returns of £10,000 on a £1,000 investment, and that his advisers would take 10% of his profits as commission. But unfortunately, the people he was dealing with were scammers, and this was not a legitimate investment opportunity.

Mr E paid over £21,000 from his Monzo account to his crypto wallet, then on to the scammers. He realised it was a scam when they wouldn't let him withdraw his money without paying the commission first.

Mr E reported the scam to Monzo a few months later. But Monzo didn't think it was liable for Mr E's loss, primarily because he'd sent the money from Monzo to a cryptocurrency account in his own name, and because it said he had done little to no checking to ensure the people he was dealing with were legitimate.

Our investigator looked into things independently and upheld the complaint in part. They thought Monzo should have intervened by the time Mr E sent his third payment on 13 May 2021, and if they'd done so the scam could've been stopped from that point on. But they also thought Mr E shared liability for the loss as he didn't carry out reasonable due diligence.

They proposed that Monzo refund half of the money that was lost from the third payment onwards, plus interest. Mr E accepted the investigator's findings, but Monzo didn't agree, so the complaint's 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.

I note that Mr E has referred to the Contingent Reimbursement Model (CRM) Code in his submissions. Monzo is not a signatory of the Code, but does apply the principles of the Code in how it looks at scam cases. However, the payments in dispute here would not be covered under the Code, as the Code does not apply to payments which the payer has effectively made to themselves (which would have been the case here given the payments were made to Mr E's cryptocurrency account before being moved on to the scammer). So I will not be commenting on the CRM further in this complaint.

It's not disputed that Mr E authorised the payments that are in dispute. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr E is responsible for them. That remains the case even though Mr E was the unfortunate victim of a scam.

Because of this, Mr E is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Monzo acted fairly and reasonably in its dealings with Mr E, or whether it should have done more than it did.

I accept that there needs to be a balance between responding to potentially fraudulent payments and ensuring there's minimal disruption to legitimate ones. But in this case, I think the payments involved do stand out as being remarkable, so I think they should have prompted Monzo to intervene.

Mr E's Monzo account was not used for day-to-day expenses in the months prior to the scam. In April 2022 he began to make payments to a cryptocurrency wallet he held, he made four payments over the next few weeks, for £2,455, £180, £300 and £10. Mr E has said all of these were legitimate payments and not part of the scam.

When Mr E began dealing with the scammers in May 2022 this pattern changed somewhat. On 13 May 2022 Mr E made three payments in quick succession, for £1,511, £500, and £3,000. So, by the time of the third payment on 13 May Mr E had paid a very significant sum (over £5,000) to the cryptocurrency platform that day, this was a fairly significant change in his use of the account, and this kind of pattern – an increase in payments over a short space of time, with multiple payments in the same day – is one of the hallmarks of this kind of investment scam.

The recipient was a cryptocurrency wallet, and the Financial Conduct Authority (FCA) and Action Fraud have previously published warnings about cryptocurrency scams, so Monzo should've had a good understanding of the risk of these scams and how they work.

I acknowledge that the payments in dispute here were made to an account in Mr E's own name, via open banking, and so could be considered less risky overall to Monzo. However, just because a payment is to an account in the consumer's own name that does not mean it bears no risk at all, and I would still expect Monzo to keep an eye out for particularly high payments or those that bore other hallmarks of potential fraud, even if those payments were made to another account belonging to their customer.

I say this because this kind of payment journey – where payments are made from an account with one bank, to accounts in the same consumer's name, and then on to buy cryptocurrency – is increasingly a feature of this kind of investment scam. And I would expect Monzo to have an awareness of how these scams operate and be aware of what it should be looking out for to help protect its customers.

With all this in mind, I think Monzo should have contacted Mr E directly to ask him some questions before allowing the third payment on 13 May to go through.

Had Monzo done this, then I think it is more likely than not that the scam would have been uncovered. Mr E doesn't appear to have been given a cover story to use by the scammer, so I think that if Monzo had asked what the payments were for then he would have been open and honest. And what Mr E would likely have told Monzo about what he was doing should have rung alarm bells for Monzo, given that these types of investment scam are becoming increasingly common. Monzo could then have explained the risks Mr E was exposing himself to, and I consider it likely that the spell of the scam would have been broken and Mr E wouldn't have proceeded with the payments. So I think Monzo could have prevented the losses Mr E incurred from the third payment onwards.

With all this in mind I consider that Monzo bears some liability for Mr E's loss from the £3,000 payment on 13 May 2022 onwards.

But I've also thought carefully about Mr E's role in what happened. I do understand Mr E's reasons for making the payments. But I'm afraid I think Mr E ought to have had some concerns along the way about what was happening. And I can't see that he carried out reasonable due diligence before paying the scammers. For example, the returns Mr E was promised, and then says he saw on the website, were not realistic given the amount Mr E had invested and the time period his funds were invested for. And Mr E says only that he saw positive reviews on the fake trading platform's own website, he doesn't seem to have done any independent checks to ensure that what he was investing in was legitimate or trustworthy.

So I don't think I can hold Monzo solely responsible for Mr E's losses from the £3,000 payment onwards. I think Mr E should also bear 50% of the responsibility for those losses.

Lastly, I've considered whether Monzo should have done more to try to recover Mr E's money. But as the payments went to his own cryptocurrency account, there wasn't anything more I'd expect Monzo to do there.

### **Putting things right**

To resolve this complaint, Monzo Bank Ltd should:

- Refund 50% of the scam payments from the £3,000 payment on 13 May 2022 onwards (inclusive).
- Pay 8% interest on this amount from the date the payments debited the account until the date when settlement is completed – but only on the funds which originated from Mr E's own account. Mr E had borrowed funds from friends to make payments as part of this scam. I don't consider Monzo should pay interest on borrowed funds as I can't see that Mr E was charged any interest.

### **My final decision**

I uphold Mr E's 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 E to accept or reject my decision before 13 December 2023.

Sophie Mitchell  
**Ombudsman**