

## **The complaint**

Mr J complains that Monzo Bank Ltd didn't do enough to protect him from the financial harm caused by an investment scam company, or to help him recover the money once he'd reported the scam.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In December 2021, Mr J was researching investment opportunities when he received a message from someone claiming to work for a company I'll refer to as "E". The broker had over 300 followers on his social media profile and posted daily content relating to cryptocurrency and FOREX trading.

The posts had a high level of engagement and included detailed educational videos, case studies and positive reviews from existing clients, and Mr J noted the broker offered 24/7 support, hassle-free withdrawals, and reliable advice. The broker told Mr J she had over 10 years of experience working in finance and was currently self-employed. She said she'd worked for E for three years and explained he would be contributing to a crowdsourced pool of cryptocurrencies or tokens, which would be used to facilitate trades.

Mr J scheduled an appointment with the broker and before going ahead with the investment, he checked E's website, which included an about us section, FAQs, and a 24/7 live chat option. It also provided details about the company directors and gave information about commodities including currency pairs such as EUR/USD and GBP/USD, stocks such as Google and Tesla, and cryptocurrencies, which included Bitcoin and Ethereum.

Once Mr J confirmed he wanted to go ahead, he was given login details to a trading account which showed the fluctuating exchange rates of various currencies. The broker asked him to first purchase cryptocurrency through a cryptocurrency exchange company and then load the cryptocurrency onto an online wallet.

Mr J told the broker he was willing to invest ££540 and on 5 January 2022, he processed two payments via an account he held with another bank. He remained in regular contact with the broker via WhatsApp who suggested he should invest more to achieve greater profits, so he made an additional payment of £520. He then made several withdrawals from the trading account into the cryptocurrency exchange, opting to re-invest the profits each time. On 10 January 2022, the broker told Mr J about a bonus scheme, in response to which he made more payments from his other account.

The balance continued to increase, and Mr J received regular bonuses. By February 2022, he told the broker he wanted to make a withdrawal and was told he'd have to contact E via the live chat option. Mr J did this but was told he wasn't eligible for a withdrawal, as he needed £25,000 in his trading account, so he made further deposits, including £2963.05 on 20 February 2022 using his Monzo card.

During the scam period, the broker told Mr J she was investing with a company I'll refer to as "B" and this could help him to generate the money he needed to withdraw his funds from E. The broker sent him a link which directed him to B's website, which showed it specialised in digital asset trading, including foreign currency pairs, cryptocurrency, oil, and gold. It promised hassle-free withdrawals with a first-class billing system. Mr J submitted two forms of photo ID and proof of address before receiving confirmation that all verification checks were complete. He was then given login details to access his trading account.

On 5 April 2022, Mr J used his Monzo card to pay £1573.68, which was credited to his trading account and on 6 April 2022, he processed two additional payments via his other account. However, when he requested a withdrawal, he was told he'd have to pay £2,000 tax, so he processed two further payments, before being blocked from both trading accounts and realising he'd been scammed.

Mr J complained to Monzo on 23 August 2022 stating it failed to warn him and recognise the payments were unusual and suspicious. But Monzo refused to refund the money he'd lost arguing he'd authorised the payments and it had executed them in accordance with his instructions. It said it provides education in relation to scams and has designated pages on its website which provide education on scams, and that the Contingent Reimbursement Model ("CRM") Code didn't apply to card payments.

It also said he'd failed to compete a reasonable amount of due diligence, for example he didn't meet the broker or a representative from E or B. And it said social media wasn't a reliable source for investment advice. It also said he should have questioned why he was given login details rather than being asked to set up the account himself and that there was information available online indicating that B could be a scam.

Mr J wasn't satisfied and so he complained to this service with the assistance of a representative. He said he didn't think Monzo had provided an acceptable level of service and explained the scam has had a massive impact on all aspects of his life.

His representative has said Monzo had several opportunities to intervene and that the payments were highly unusual because they were high value to a new international payee. They said each payment was a missed opportunity to intervene and ask probing questions around the purpose of the payment and whether there was a third party involved, and that properly trained staff ought to have recognised the hallmarks of a typical impersonation scam and provided education about the risk of fraud.

They said that if Monzo had asked probing questions, Mr J would have been honest and whilst it knew he was sending money to a legitimate cryptocurrency exchange, it should have still provided a scam warning in light of all the information known to banks about the increasing number of scams associated with cryptocurrency.

Our investigator didn't think the complaint should be upheld. He said he didn't think the payments were unusual, so Monzo didn't miss an opportunity to intervene. And because it didn't speak to or interact with him when he made the payments, it wouldn't have known the funds would be transferred to E or B, so he couldn't fairly ask it to do anything to resolve the complaint.

Mr F has asked for the complaint to be reviewed by an Ombudsman. His representative has argued that value isn't the only relevant aspect of a transfer, and the payments demonstrated a known scam pattern which Monzo failed to pick up on. They maintain that if Monzo had asked probing questions, it would have uncovered the scam.

Mr J has said Monzo had a duty of care to protect him from fraud, which extended to promptly identifying and alerting him about suspicious transactions or potential scams and that his losses could have been prevented if appropriate action had been taken in a timely manner.

### **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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr J has been the victim of a cruel scam. I know he feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, in all but a limited number of circumstances. Monzo has said the CRM code doesn't apply to card payments and I'm satisfied that's the case.

I'm satisfied Mr J 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr J is presumed liable for the loss in the first instance.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk unregulated investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods that were arguably unethical and/or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

I've carefully considered the circumstances, and I am persuaded the broker was operating as part of a scam. But, although Mr J didn't intend his money to go to scammers, he did authorise the disputed payments. Monzo is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

### ***Prevention***

I've also thought about whether Monzo could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Monzo had an obligation to be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Mr J when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Monzo to intervene with a view to protecting Mr J from financial harm due to fraud.

The payments didn't flag as suspicious on Monzo's systems. I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mr J normally ran his account, and I don't think they were. Mr J's representative has argued that the size of the transactions relative to Mr J's typical transacting history combined with the

fact they were to an unusual payee should have raised concerns. They've said the largest payment in November 2021 was for £1,118.79 and the other payments that month were below £220. There were no credits or debits in December 2021 and in January 2022, the largest payment was for £10.

Based on this information, I accept Mr J didn't use the account for large payments. But the disputed payments were to a legitimate cryptocurrency exchange, they weren't high value, and they weren't such that they were unusual for the account, especially as Mr J had made a payment of £1,118.79 in November 2021. So, I don't think Monzo missed an opportunity to intervene.

Overall, I'm satisfied Monzo took the correct steps prior to the funds being released – as well as the steps it took after being notified of the potential fraud. I'm sorry to hear Mr J has lost money and the effect this has had on him. But for the reasons I've explained, I don't think Monzo is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

### **My final decision**

For the reasons I've outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 26 October 2023.

Carolyn Bonnell  
**Ombudsman**