

The complaint

Mr F 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 to it.

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.

Mr F received a WhatsApp message from a woman who claimed to be from a recruitment company I'll refer to as "R". The scammer explained she'd got Mr F's details from the company database and had a freelance opportunity available.

Mr F expressed his interest before receiving another WhatsApp message from someone who I'll refer to as "the scammer" who said he worked for Company A. The scammer showed him a platform that appeared to show individual 'tasks' and explained that merchants pay the employee to simulate the purchase of items through the platform. The simulated 'purchases' improve the algorithms of each product which improves the chance the merchant will be able to sell the item.

The scammer told Mr F to add deposits to the platform to simulate 'buying' the items, and each task would use up some of the deposit, but a commission would be added to his account. She explained he could earn £50 to £200 per day, with \$500 on the fifth consecutive day and that at the end of a 'set' of 40 tasks, he would have the opportunity to withdraw his commission as well as the original deposits.

Mr F was added to a WhatsApp group with other 'freelancers' who regularly posted screenshots of themselves completing tasks and receiving profits. Mr F noted A's website was professional looking with a colour scheme and logo that matched a legitimate company. The scammer asked him to first purchase cryptocurrency from individuals and then load it onto an online wallet. Between 4 February 2023 and 17 February 2023, he made twelve payments totalling £10,345.

After Mr F made the initial deposit on 9 February 2023, he made a successful withdrawal of £122.10. But, after completing the required tasks, he was asked to make further deposits, at which point he realised he'd been the victim of a scam. He complained to Monzo arguing it had failed to recognise the payments were unusual, but it refused to refund any of the money he'd lost.

Mr F wasn't satisfied and so he complained to this service. His representative said the largest transaction he had previously made from the account was £2,000 to an account in his own name, and his monthly income was £1800, so it should have been concerning that he suddenly made frequent and large payments totalling over five times his monthly salary. They said the running of the account had changed during the scam period as he had never sent large funds to an external payee before, and the pattern of behaviour was indicative of a scam.

They said that if Monzo had intervened and asked why he was sending the money, Mr F hadn't been told to lie and so he would have admitted he was contacted on WhatsApp, he was sending money for a job that he was earning commission on, and he received a small return. With that information, it would have been obvious this was a job scam and Mr F's loss could have been prevented.

Our investigator felt the complaint should be upheld. She noted Monzo had presented its new payee online warning when he set up each new payee, which urged Mr F to consider whether someone could be trying to scam him. He was also presented with a second fraud warning on some of the payments, again urging him to consider whether he was being scammed and to stop if the offer sounded too good to be true or if he'd been told to ignore warnings.

She was satisfied the warnings were relevant and she explained that she didn't think Monzo needed to intervene until Mr F paid out £2,900 on 12 February 2023 because before that, the payments weren't unusual when compared with Mr F's normal account activity. She thought Monzo should have contacted Mr F via its online-chat facility as the payment represented a significant increase in spending which was beyond his typical expenditure.

She said it should have asked him why he was sending payments to new payees in a short space of time and had it done so, he would've explained he was offered a job which required him to complete tasks in order to earn commission and that he was required to make payments in cryptocurrency.

She thought this represented a missed opportunity to have prevented Mr F's loss and so she recommended Monzo should refund the money Mr F had lost from 12 February 2023 onwards. However, she thought he could have taken a more cautious approach before making the larger payments, so the settlement should be reduced by 50% for contributory negligence.

Monzo has asked for the complaint to be reviewed by an Ombudsman. It has said the payments were sent to private sellers on a P2P platform and were not the scam payments and Mr F had received the cryptocurrency from the sellers. It has said it had no way of knowing the recipients of the funds were supplying cryptocurrency and it had no visibility over Mr F's other accounts, which is where the fraudulent funds were sent from. So, there was no indication the payments were high-risk.

It has argued that Mr F was given sufficient warnings for each new payee and the warnings should've raised concerns as he was making payments to people he didn't know. It has argued the £2,900 payment on 12 February 2023 wasn't suspicious or out of character and that bank accounts are designed to facilitate day to day spending as well as to accommodate larger purchases, so it wouldn't have needed to intervene just because he was making a larger payment. It also said the pattern of moving funds into the account and the timings/frequency of payments wasn't out of character for the account.

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.

The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, like the one Mr F says he's fallen victim to, in all but a limited number of circumstances. But the CRM code didn't apply in this case because Mr F received the cryptocurrency he paid for.

I'm satisfied Mr F '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, he is presumed liable for the loss in the first instance.

There's no dispute this was a scam, but although Mr F 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 thought about whether Monzo could have done more to prevent the scam from occurring altogether. Monzo ought to fairly and reasonably 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 F 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 F from financial harm due to fraud.

I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mr F normally ran his account and I think they were. The first eight payments were to individuals, so it wouldn't have been obvious that Mr F was buying cryptocurrency. And the payments were low value, so I don't think Monzo needed to intervene.

But, by the time he made the ninth payment on 12 February 2022, this was the fourth new payee Mr F had set up that day and the seventh new payee in eight days. And the largest payment he had made in the months prior to the scam was for £1,500 on 6 October 2022, so the amount represented an increase in his normal spending habits. So, I think Monzo ought to have intervened.

Monzo has explained that it provided a written warning each time Mr F set up a new payee and a second warning was triggered on some of the payments including the £2,900. I've looked at these warnings and I accept they include advice about scams. But I agree with our investigator that Monzo should have contacted Mr F when he made the ninth payment to ask why he was making the payments and as he hadn't been coached to lie I think he'd have told it she was buying cryptocurrency to make deposits for a job. And with further questions I think he'd have also disclosed that he'd been contacted via WhatsApp and that he'd been told he could earn up to £200 per day in commission.

This would have been enough information for Monzo to have identified this as a scam and it could have told him there were red flags present and provided a tailored scam warning. And as there's no evidence Mr F was keen to take risks with his money, I think he'd have listened to the advice and refused to make any more payments. So, I think Monzo's failure to intervene represented a missed opportunity to have prevented Mr F's loss and that it should refund the money he lost from the ninth payments onwards.

Contributory negligence

There's a general principle that consumers must take responsibility for their decisions and conduct suitable due diligence.

Mr F has said that he was contacted on WhatsApp by someone who said he could make up to £200 per day by completing tasks, and that he was required to pay for these tasks by making deposits in cryptocurrency. I accept that this was a sophisticated scam, Mr F had been able to make a small withdrawal and he'd checked the company website and thought it looked genuine. But I think he should have asked questions about why he was being required to make payments in cryptocurrency and why he wasn't given any employment documentation. He was given written warnings each time he set up a new payee and there were clear red flags that something wasn't right and if he'd done some more research or sought some advice from a third-party, possibly Monzo, he might have realised he was being scammed.

Because of this I agree with our investigator that the settlement should be reduced by 50% for contributory negligence.

My final decision

My final decision is that Monzo Bank Ltd should:

- refund £8,300.
- this settlement should be reduced by 50% to reflect contributory negligence.
- pay 8% simple interest*, per year, from the respective dates of loss to the date of settlement.

*If Monzo Bank Ltd deducts tax in relation to the interest element of this award it should provide Mr F with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 8 January 2024.

Carolyn Bonnell
Ombudsman