

## The complaint

Mrs O complains that Monzo Bank Ltd (“Monzo”) won’t refund her multiple payments made from her current account as the result of a scam.

## What happened

I issued a provisional decision in September 2023 to explain why I thought Mrs O’s complaint should be partially upheld. And I said I’d consider anything else anyone wanted to give me. This is an extract from that provisional decision:

*“In February 2021, Mrs O was involved in a scam. She was persuaded to send £15,000, over a series of three payments, from her Monzo account to someone who purported to be a private forex trader but who we now know to be a scammer.*

*Mrs O was told by the scammer that her capital would be safe and she would receive between 5-10% returns on her investment each month, once the investments reached maturity.*

*However, by April 2021, the scammer had stopped communicating with Mrs O and at that point, she realised she’d been scammed.*

*Mrs O then contacted her bank for help. Monzo looked into Mr O’s complaint but it didn’t offer her a refund of the funds she had lost. It said it had contacted the scammers bank, but it hadn’t been able to retrieve any of Mrs O’s funds. Monzo went on to say that it would not look to assume liability for Mrs O’s loss.*

*Unhappy with Monzo’s response, Mrs O brought her complaint to our service. An investigator looked into things but he didn’t uphold the complaint. He said he didn’t think Mrs O had a reasonable basis for believing that the investment she had entered into was legitimate. Specifically, he said the returns she had been promised were too good to be true and Mrs O hadn’t done enough checks before entering into the investment.*

*Mrs O disagreed. She said the returns were reasonable at the time the payments were made and that by that point, she’d already seen the returns that family members and friends had received. Mrs O also stressed that she had spoken to an independent financial advisor about the investment before making the payments and he’d been satisfied that the investment was legitimate.*

*As an agreement could not be reached, the case was passed to me for a decision.*

*What I’ve provisionally 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 am currently minded to disagree with the findings put forward by our investigator and partially uphold this complaint. I'll explain why in more detail below:*

#### *Mrs O's total loss*

*Mrs O has said that having seen her husband and some of her friends invest with the scammer and receive significant returns, she decided to take out a loan with a third-party bank and invest too. Mrs O says when the loan funds were paid into her account, she then invested £15,000 with the scammer in February 2021. However, evidence was presented to me that showed Mrs O received a payment of £5,000 from the scammer in January 2021 via her husband. It's unclear how Mrs O could've received returns from the scam a month before she'd even begun to invest but regardless, it appears that somehow Mrs O has received £5,000 as a result of her involvement in this scam. So, I don't think it would be reasonable to start from the position that Mrs O has lost £15,000 as a result of her involvement with the scammer. It appears that Mrs O's overall loss amounts to £10,000 and so I've proceeded on that basis.*

#### *The CRM Code*

*Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (the CRM code) which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances.*

*A customer who has fallen victim to a scam should, under the CRM Code, be refunded in full in most circumstances. But the Code does set out exceptions to reimbursement which a business can choose to rely on, if it can evidence that they apply.*

*Monzo has said that two such exceptions apply in Mrs O's case. Monzo says that:*

- It wasn't able to provide Mrs O with an effective scam warning at the time the payments were made because Mrs O didn't pick the correct reason for the payments she was making; and*
- Mrs O lacked a reasonable basis for believing she was dealing with a legitimate person for legitimate purposes.*

*It is then for me to decide whether these exceptions to reimbursement can be fairly relied on.*

*It is not in dispute that Mrs O has been the victim of a scam. I'm satisfied the proposition offered by the scammer was a fraudulent scheme. But I then need to consider the merits of Mrs O's individual case, taking into account her specific circumstances.*

*Did Mrs O have a reasonable basis for belief when she made the payments?*

*Taking into account all of the circumstances of this case, including the characteristics of Mrs O and the complexity of the scam, I think the concerns Monzo has raised about the legitimacy of the transactions Mrs O made are enough to support its position that she failed to meet her requisite level of care under the CRM Code.*

*Whilst I understand Mrs O had seen her husband and their friends receive returns on their own investments, I don't think she had a reasonable basis for believing the scammer was the person he held himself out to be or that the investments on offer here were genuine. In reaching this conclusion I have taken into account the following:*

- *I haven't seen any evidence that shows me that Mrs O discussed the investment with the scammer directly at all. It appears that all communication took place via her husband. And based on what I've seen of these conversations, it appears that the majority took place over a text-messaging service - which is not a method used to arrange and agree legitimate investments. The language used by the scammer wasn't professional and wasn't what I'd expect of a genuine trader either. I therefore think that the nature of the messages, in combination with the other factors, ought reasonably to have led Mrs O to have concerns.*
- *I haven't seen any evidence of a contract or any other documentation signed by Mrs O and the scammer that would indicate she was entering into a genuine investment.*
- *The investment Mrs O was offered did not sound genuine and the rate of return she was offered and the timescale to receive it were too good to be true. Mrs O was offered 5-10% return on the investments per month and some of the text messages shared between Mrs O's husband and the scammer indicate returns of over 50%. These rates of return are not plausible and even more concerning is that Mrs O was told that her original investment was guaranteed. No investment is guaranteed, and forex trading is particularly volatile. And so I'm satisfied that these rates of return were so totally unrealistic and so unlikely that Mrs O ought reasonably to have had significant concern about the legitimacy of the opportunity that was presented to her. That, in turn, ought to have led to a greater degree of checking on her part.*
- *Mrs O has said she did carry out some checks on the scammer, including finding his profile on various social media websites and checking that the company he said he was running was registered on Companies House. However, one of the social media profiles mentioned by Mrs O identified the scammer as a musician and makes no reference to legitimate investments. Furthermore, the company registration on Companies House refers to the business being related to "educational support services" and not any kind of financial services. I'm satisfied that all of these things should have been significant red flags for Mrs O.*
- *I've taken on board what Mrs O has said about speaking with an Independent Financial Advisor ("IFA") before making the payments but Mrs O hasn't been able to provide me with the name of the person she spoke to, the company they worked for or any documentation or receipts to evidence that this conversation took place at the time. Mrs O says the IFA was found online and a meeting took place via video-link where the terms of her husband's contract with the scammer were read out. Mrs O says this was a free consultation and therefore she doesn't have any proof of payment. Mrs O says the IFA confirmed that the investment appeared legitimate. But I'm not persuaded this is what happened here. As I've said above, no investment could offer a guaranteed return and I'm satisfied that had Mrs O sought independent financial advice, it would've been readily identified that this was most likely a scam. And at the very least, I would've expected the advisor to tell Mrs O to check if the trader was registered with the FCA before proceeding and to warn against proceeding with anyone that wasn't.*
- *If Mrs O was investing through a genuine company, I'd expect to see the funds she paid go to a company account and not to a number of different personal accounts.*

*Overall, I'm not persuaded that Mrs O completed enough research before deciding to go ahead and invest - particularly given the significant red flags in this case.*

*Did Monzo provide Mrs O with an effective warning/warnings?*

*The CRM Code also sets out standards for firms – that is, what firms are expected to do to protect customers from the risk of fraud and scams. One of those requirements is that, where the firm has (or should have) identified that its customer is at risk from a scam, it*

should provide that customer with an “effective warning”, within the meaning of the CRM Code.

Mrs O says Monzo didn't provide her with effective warnings before she made the payments now in question here.

I've reviewed the scam warnings that were presented to Mrs O at the time the payments

were being made and I can see they weren't specific to the type of investment scam Mrs O was falling victim to. The warnings presented to Mrs O related to what are known as “goods and services” scams. And so I don't consider the warnings provided to Mrs O were effective within the meaning of the code. However, the code says where it is possible to tailor the warning, this should be based on the specific scam risk identified by the information the customer input into the bank's payment systems at the time.

So, if the customer entered information that steered the bank in the wrong direction about the purpose of the payment, this can sometimes impede the bank's ability to give a relevant effective warning. And in the particular circumstances of this case, when Mrs O was asked to confirm the reason she was making the payments now in question, she chose the payment reason “goods and services” rather than the more applicable payment reason of “investment” which was available to her.

When asked about this, Mrs O said she thought the returns she had been promised here amounted to a service and this is why she chose the option she did. I've taken on board what Mrs O has told me but there wasn't anything else about the payments that would've indicated to Monzo that these payments were being made as a result of an investment. And the bank can only give a warning based on the scam risk it could've reasonably identified at the time. Given the information input by Mrs O at the time of making the payments alongside the characteristics of the payments themselves, I don't think it would be reasonable to say that in this particular case, Monzo should've identified that Mrs O was about to fall victim to an investment scam. And so whilst I agree here that Monzo should've provided Mrs O with an effective warning, and it has given a warning that wasn't specific to the underlying scam that occurred here, I don't think it would be fair and reasonable to conclude that it failed to meet its standards under the code and therefore that it should be held partially liable for Mrs O's loss for this reason.

Should Monzo have done anything more to protect Mrs O?

Monzo should have been on the lookout for unusual and out of character transactions. And I consider the first £5,000 payment to be out of character given Mrs O's previous account and payment history. Having considered Mrs O's bank statements for the period before the scam I can see that the first payment made as part of the scam was considerably higher than payments she usually made from the account and it was being made to a new payee directly after loan funds had been paid into the account. And so, I think the first payment made here ought reasonably to have caused Monzo to have any concerns that she was at risk of being scammed and I'm satisfied that Monzo should've contacted Mrs O to discuss the payment before it left her account.

Had Monzo contacted Mrs O to discuss the payment, I'm satisfied that it's more likely than not that the scam could've been uncovered. Mrs O hadn't been given a cover-story by the scammer and would've had no reason to lie to the bank. And I'm satisfied that had Monzo, after asking relevant probing questions, identified that Mrs O had been promised guaranteed returns by an unregulated trader she was speaking with via a messaging service, Monzo would've fairly quickly identified that Mrs O was about to fall victim to a scam and could've

*prevented the payments from leaving her account. For this reason, I am currently minded to say that it would be fair and reasonable for Monzo to take responsibility for 50% of Mrs O's overall loss amounting to £5,000."*

### **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'm minded to reach the same overall conclusions as I reached in my provisional decision. I'll explain why in more detail below.

Both Mrs O and Monzo responded to my provisional decision to say they disagreed with my provisional findings and both provided further points for my consideration.

Mrs O said:

- She didn't think it was fair to deduct the £5,000 paid to her by the scammer (via her husband's account) from the refund awarded in my provisional decision.
- She agreed that the initial £5,000 payment that left her account was unusual and she maintained that this meant Monzo should be liable for her total overall loss.
- Mrs O wished to stress that although the majority of the conversations in regard to the supposed investment took place between the scammer and her husband, she was present during all of these conversations and was privy to all of the information being shared.

Monzo said:

- It had reviewed Mrs O's bank statements for the 12 months leading up to the scam and it disagreed that the initial £5,000 payment was out of character when compared to the usual activity on Mrs O's account. It said Mrs O had made similar or higher value payments than the one now in question in March, May and June 2020. And it provided copies of Mrs O's statements to support this.
- Monzo wished to highlight that, at the time of making the payments, Mrs O was presented with scam warnings and, whilst it appreciated that the warnings were not relevant to the type of scam Mrs O was falling victim to, it had evidence to show that Mrs O moved back and forth between the warning screens when making the payments and the warnings did include the following directions "*Stop don't pay*" and "*check with your bank*".

I'll address each point in turn.

I acknowledge that Mrs O feels that it would be unfair to deduct the £5,000 payment paid to prior to her investing in the scam. However, I don't agree. It wouldn't be reasonable for me to say that Mrs O had suffered an overall loss of £15,000 as a result of her involvement in the scam, if she also received a payment of £5,000 because of this involvement. So, I'm satisfied it is reasonable to take this payment into account now.

I also want to acknowledge what Mrs O has said about Monzo not identifying that she was likely falling victim to a scam from the first payment onwards – despite this payment being unusual for her account. As I said in my provisional decision, I agree that Monzo should've identified that there was a scam risk attached to this payment. However, this doesn't

necessarily mean that Monzo should be held liable Mrs O's total loss now. Once Monzo's role in the success of the scam has been agreed, the next thing I need to think about is whether Mrs O should also bear some responsibility for the success of the scam. And as I said in my provisional decision, I think she should. This is the reason I recommended that Monzo share responsibility for the overall loss and the redress I recommended reflects this shared responsibility.

Monzo has provided me with additional account statements which it says show that the initial £5,000 payment made as part of this scam was not unusual for Mrs O's account. However, I don't agree. Mrs O making similar or higher payments eight months prior to the payments now in question here does not make this activity "usual". The very fact that Monzo has had to go back eight months to find similar transactions supports the fact that the transactions are, in fact, unusual. So Monzo's further submissions on this point have not changed my mind. And whilst I appreciate Monzo providing me further information about the scam warnings that were provided to Mrs O at the time and for detailing Mrs O's actions whilst processing the scam payments, I don't think these make a difference either, as, overall, the scam warnings seen by Mrs O at the time were unlikely to have been impactful due to them not being relevant to the scam she was falling victim to.

### *Recovery of funds*

I've also thought about whether Monzo could've done more to help Mrs O once it was notified of the scam but I don't think it could.

I can see that Monzo contacted the receiving banks where Mrs O's funds were paid to but were told no funds remained in the accounts to be returned to Mrs O. I acknowledge that Monzo did initially contact the wrong bank but I don't think this has made a difference here.

Through no fault of her own, Mrs O reported that she had been the victim of a scam some six months after the payments to the scammer had been made. So, I think it's reasonable to assume, given the timeframes involved and given what we know about the scammer, that the funds were most likely utilised prior to Mrs O reporting the scam to Monzo and therefore could not have been recovered at the time.

### *Summary*

As neither Mrs O nor Monzo has provided any new evidence or submissions that have changed my mind, I see no reason to depart from the conclusions I reached in my provisional decision.

### **Putting things right**

In order to put things right for Mrs O, Monzo Bank Ltd should:

- refund Mrs O 50% of her total loss amounting to £5,000.
- pay interest on that amount at a rate of 8% simple from the date the first payment left the account to the date of settlement.

### **My final decision**

My final decision is that I partially uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or

reject my decision before 27 October 2023.

Emly Hanley Hayes  
**Ombudsman**