

The complaint

Mrs M complains that Monzo Bank Ltd (Monzo) won't refund the money she lost to a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them all again here. Instead, I'll summarise the key points, and focus on giving reasons for my decision.

Mrs M was introduced to a company I'll refer to as G in August 2021, through the recommendation of a friend. She had investment experience and trusted her friend's recommendation, so contacted G. She found they seemed professional and knowledgeable about cryptocurrency trading, and was sent a link to what looked like a genuine trading platform. Unfortunately, G were operating a scam.

In late September 2021, she started making payments from her Monzo account to an existing cryptocurrency wallet she held (B). From there, she says the funds were loaded on to G's platform. Prior to this, she had been making payments to G from other accounts. She had also paid B from her Monzo account before the scam.

By early 2022, Mrs M realised she had been scammed, as she was asked to pay tax fees and wasn't able to make any large-value withdrawals. She complained to Monzo that it failed to do enough to protect her. She said the payments looked unusual, so it should have questioned her. And if it had done so, she wouldn't have proceeded.

Monzo didn't accept liability for Mrs M's loss, so she referred her complaint to our service. Our investigator thought Monzo should have identified the first payment as suspicious, and that it had missed an opportunity to uncover the scam at that point.

Some of the payments were originally funded by a loan taken out by a limited company which Mrs M is the director of, which shouldn't have been used for personal gain. So the investigator didn't think Monzo should fairly be expected to refund Mrs M for this – and also recommended a deduction of 50% of the remaining loss, to reflect Mrs M's liability.

Mrs M accepted this recommendation, but Monzo didn't. It said the payments hadn't been uncharacteristic due to Mrs M's history of payments to B – the first of which generated a 'low friction' scam warning.

Earlier in September 2023, I issued my provisional decision explaining why I wasn't minded to uphold this complaint. In summary, I explained I wasn't persuaded all the payments went to the scam. Although there was a point at which I thought Monzo ought to have done more, I'm not persuaded it would have succeeded in preventing any fraudulent losses.

I invited both parties to provide any further comments or evidence. Monzo hasn't provided anything further. Mrs M says the payments were a significant increase compared to her previous payments to B, so Monzo should have picked up on that. She also says all the payments reported were sent on to the scammers.

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 decided not to uphold it. This is largely for the same reasons given in my provisional findings, so I've set those out below to explain my final decision. But I've added some commentary (set out in italics, for ease) to address the points raised by Mrs M in response to my provisional decision.

In line with the Payment Services Regulations 2017, the bank is expected to execute authorised payment instructions without undue delay. So, as Mrs M authorised these payments, the starting position is that she'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. That might be the case when a payment looks uncharacteristic and suspicious in line with the customer's usual account history. However, this duty to intervene is predicated on there having been a fraud or scam risk present.

Although the investigator thought Monzo should have identified the first payment as suspicious, I think that would be setting too onerous a standard on Monzo. While it was for a significant amount, at £5,010, the key thing here is that Mrs M did have a history of making payments to the merchant, B.

In the six months prior to the scam, Mrs M paid B over £10,000 within a two-month period. This included sizeable payments in the thousands, as well as instances of making multiple payments to B on the same day. In that context, while the payment of £5,010 – which does appear to have been transferred on to G – was an increase, I don't think it looked so unusual that Monzo ought to have suspected Mrs M was at risk from fraud or scams.

The next day, Mrs M made two further payments of £5,100 and then £5,010 to B. I think there is a stronger case for arguing that constituted an uncharacteristic change in the operation in the account. But, based on the records provided, I'm not persuaded those payments were intended for the scam.

I'd reassure Mrs M that I have considered her point about the payments being a significant increase compared to previous payments to B. But, for the reasons given, I don't agree that the first payment constituted a significant increase. I agree that the second did. But, again as set out above, the duty to intervene doesn't apply unless there is actually a scam risk present. I'll explain further why I'm not persuaded that's the case.

Mrs M has provided a record of transactions on her G account. This shows money being loaded prior to these Monzo payments, as well as a withdrawal of £500. Then deposits were made for £26,000 and £10,000 respectively, on the day of the first Monzo payment which I've determined didn't warrant intervention. *And they were predominantly funded by payments from other accounts.* There was then a gap of almost a month before any further payments were made; a deposit of £4,025 on 28 October 2021 followed by a further £7,000 the next day.

So the payments totalling £10,110 were made after Mrs M had loaded funds to G's account, and around four weeks before any more funds were transferred over. It appears Mrs M was using her B account to trade with cryptocurrency in the interim. Contrary to her initial submissions (made via a professional representative), the ten withdrawals from B in October 2021 seem to have been funded from genuine trading rather than any proceeds from G.

I appreciate Mrs M says the payments did all go to the scammer. But I've come to my view, on the balance of probabilities, based on the records she has provided of her account with G – and the transactions made on her B account. I've set out specifically why I'm not persuaded these funds all went to the scam above, and I'll touch on this further below. Mrs M's response doesn't provide any specifics or details to explain why my conclusion, based on the evidence, is incorrect. And so, on balance, I'm still not persuaded it's likely all these funds were transferred on to G.

I'm therefore not persuaded the expectation to intervene 'kicks in' here, as I'm not persuaded these payments were made for the scam. Similarly I'm not persuaded that, if Monzo had asked Mrs M about the payments, she would have mentioned G – rather than saying she was using the funds for her own trading on B's platform. So I'm not persuaded Monzo ought to have uncovered the scam at this point either.

Funds were next sent on to G in late October 2021. While Mrs M did pay B in the days leading up to this (£100 on 26 October; £1,000 on 27 October; £3,050 on 28 October; and £230 and £1,800 on 29 October), I'm not persuaded that appeared uncharacteristic given her payment history. She had been paying B regularly since March 2021, including many payments for similar amounts.

While Mrs M went on to make further payments to B, the records she has provided from her G account don't show that these were loaded on their platform. And I can see Mrs M was doing other trading on B's platform – buying, selling, and converting various cryptocurrencies, as well as making withdrawals. So again, it's unclear whether the funds were intended for the scam. And by that point, the pattern of higher-value cryptocurrency payments appeared common for the account.

That said, I'm mindful that, on 1 November 2021, Monzo did send Mrs M a message explaining it had seen an increase in reports related to fraudulent behaviour on online cryptocurrency exchange platforms. It said it was prohibiting cryptocurrency trading on Mrs M's account as a result, and explained – if she continued to use her account for cryptocurrency payments – it would give warning to close her account.

Given the risk identified, I think Monzo should have interacted with Mrs M directly or given her a more tailored warning about cryptocurrency scams. But, as explained, I don't currently have enough to show whether any of the funds sent after that date were intended for the scam – meaning I can't fairly direct Monzo to refund them.

Even if Mrs M can provide records showing further payments were sent to G, funded from her Monzo account, I'm not persuaded intervention by Monzo at this point would reasonably have dissuaded her from proceeding.

Mrs M has told us she was very persuaded by the platform, which she had been using for several months by this point, as well as the recommendation of her friend. Although Monzo could have warned her about the features of cryptocurrency scams, and explained how she could look into G further, I'm not persuaded she would have done so at this point. From her perspective, she was already persuaded that G were legitimate.

I'm also conscious the Monzo payments were being funded from other accounts. For nearly all the payments, there was an immediate inward payment made from another account. I asked Mrs M to confirm the source of all of these, but her response doesn't fully account for the source of all the funds.

This is relevant for a couple of reasons. First of all, given that Mrs M had been making payments to G via at least two other bank accounts, it raises the question of why she wasn't making the payments directly from the originating accounts. The movement could be an indication she was looking to make payments in a way to avoid intervention from the account provider. Which makes me less inclined to think she would have been forthcoming about the trading she was doing.

Furthermore, Mrs M has confirmed some of these payments were funded by a £35,000 Bounce Back loan taken out by her limited company. But under the Bounce Back loan scheme, those funds were not meant to be used for personal reasons. And so I wouldn't consider it fair to expect Monzo to indemnify Mrs M for the money she lost as a result of that.

That is assuming the loss arising from the use of those loan funds is actually Mrs M's personal loss. If the loss was actually incurred by the limited company, that would fall outside my jurisdiction to consider. As I can only consider complaints arising from certain types of relationships between the business and the complainant – generally a customer relationship. Here, Mrs M's complaint stems from her customer relationship with Monzo, not a customer relationship between Monzo and the limited company.

I'm sorry to disappoint Mrs M, as I do accept and appreciate that she has been the victim of a cruel and sophisticated scam. But my role is to determine whether it would be fair and reasonable to hold Monzo liable for her loss. And, for the reasons set out above, I'm not persuaded it is.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 24 October 2023.

Rachel Loughlin
Ombudsman