

The complaint

Miss P complains that Monzo Bank Ltd (Monzo) won't refund the money she lost as a result of a scam.

Miss P has used a professional representative to bring this complaint to our service and they have made submissions on her behalf. For consistency, I'll refer to Miss P throughout.

What happened

Miss P was tricked into making 19 payments totalling £19,758.24 from her Monzo account to other accounts in her own name, then on to a scammer. Miss P also received returns to her Monzo account totalling £228. Her outstanding loss is £19,530.24.

In October 2022, Miss P was contacted on a social media platform about an opportunity to make money. Unbeknown to Miss P, she was speaking with a scammer. Miss P understood the scammer to be from a tech company (that I'll call T) offering an opportunity for Miss P to invest funds and earn an instant profit. Miss P registered her interest and was sent follow up contact through a different social media platform. She says the scammer explained she would make payments towards advertisements of holiday destinations around the world. Miss P had to click on different destinations on a website to raise awareness and in turn generate profit. Miss P has described it as both an investment and job opportunity, but it seems more likely to have been the latter.

The scammer helped Miss P open an account on their platform (that I'll call L), which Miss P felt looked legitimate. She started with a payment of £15.40 on 2 October from Monzo to her own account with another bank, and from there on to the scammer. Miss P says she got £86 back in 24 hours so she proceeded to make further payments between 18 October and 29 October. During this time, the scammer instructed Miss P to open another account with an electronic money institution (EMI). So, some of the payments went from Monzo to the EMI account, and from there to the scammer.

When Miss P tried to withdraw her funds, the scammer said she needed to pay a withdrawal fee. Miss P wasn't expecting to pay this and didn't want to proceed. At this point the scammer became aggressive and she realised she'd been scammed.

Miss P contacted Monzo on 4 March 2023. It contacted the EMI Miss P sent her funds to the same day, but no funds remained. Monzo declined to refund Miss P because:

- Miss P sent the funds to her own accounts, so these were not scam payments. The fraudulent payments were sent on by Miss P, from the two accounts she paid from her Monzo account. The loss therefore did not occur from the payments made from Monzo.
- The payments were authorised and executed in accordance with Miss P's instructions.
- Miss P didn't take reasonable steps before making the payments.
- The payments were not out of character for Miss P.

Miss P thinks Monzo ought to have warned her about the payments she was making, so she referred her complaint to our service and our Investigator upheld it. They recommended Monzo refund 50% of Miss P's outstanding loss from and including payment 17, together with 8% simple interest from the date of debit to reimbursement. They thought Monzo ought to have contacted Miss P to verify the unusual activity and in doing so, likely would have uncovered the scam. But Miss P had also acted with contributory negligence so she should share liability.

Miss P accepted the recommendations, but Monzo didn't. It maintains it can't be held liable for losses which occurred on external accounts and argues there's no such guidance in place which stipulates this. Nor should Monzo stop Miss P sending money to her own account. And Miss P didn't conduct sufficient due diligence.

Since then, our Investigator has clarified to both parties that their recommendations do not include interest as Miss P borrowed the funds from family. And there's been no evidence provided to show she'd repaid them. Miss P accepted this.

As no agreement could be reached, this case was passed to me for a decision to be issued.

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 agree with the outcome our Investigator reached and broadly for the same reasons. I'll explain why.

Miss P freely admits she carried out the transactions in dispute, albeit she was tricked into doing so. Under the relevant regulations, namely the Payment Services Regulations 2017 (PSR 2017), Miss P is responsible for transactions she's authorised.

However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Monzo should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

Having reviewed Miss P's statements from January 2022, I can see the account was typically used for low value day to day spending, as well as to receive credits and move funds between her Monzo 'pots'. She typically maintained an account balance not exceeding a few hundred pounds. The largest debit prior to the scam was a £900 transfer to her own account in March 2022, which appeared as a one off. Miss P made the first disputed payment on 2 October to an existing payee in her own name. Monzo said no fraud warnings

triggered and the confirmation of payee (CoP) 'match' result was reused from a previous check. The payment was unremarkable in value, and I see no reason why this ought to have stood out to Monzo as unusual. She made further payments over two weeks later. Whilst the frequency increased at this point with payments being made almost every day until 22 October, these payments too were unremarkable in value and should not have caused Monzo concern. The same can be said of the payments between 25 October and 28 October.

It wasn't until 29 October that the activity started to appear unusual and out of character. I say this because Miss P made three payments out in just over 30 minutes, with a combined value of £8,923. This was a sudden increase in spending on her account, and each payment drastically increased in value, with the largest debit on that day being £6,000. These payments went to a new payee in her name set up two days prior, on 27 October. Monzo, and the account provider these payments were sent to, use CoP so Monzo likely was aware that the receiving account belonged to Miss P. However, taking into account common scam scenarios and the evolving fraud landscape (including for example the use of multi-stage fraud by scammers) which Monzo ought to have been aware of, I don't think the CoP result eliminated the risk associated with the payments. Overall, I'm satisfied this activity was sufficiently out of character and unusual compared to Miss P's prior account activity, so much so that Monzo should've been concerned that Miss P was possibly at risk of a fraud or scam.

Monzo should have contacted Miss P at the point of the £6,000 payment to query the recent activity. Miss P has confirmed she wasn't told to mislead Monzo so I see no reason why she might not have been truthful had Monzo asked further questions about the nature of the payments. It's entirely possible that Miss P could have told Monzo she was sending the funds to her own account, and Monzo likely knew this from a CoP check. However, this wouldn't mean Monzo ought to assume the funds were going somewhere safe and in Miss P's control. As explained, Monzo ought to have been well aware of multi-stage fraud. By the time the scam took place, I'd expect Monzo to know that fraudsters often persuade customers to part with funds by means with the least friction possible and this often includes through the customers own accounts at another firm. It's also common for fraudsters to encourage customers, like Miss P, to open accounts for this very reason for the purpose of the scam, as was the case with the EMI account she sent the funds to.

Had Monzo questioned Miss P further, Monzo could have discovered that she'd recently opened this account following the instructions of a third party. And she was intending to move the funds on from the account in her name to a third party, all of which is often a tell-tale sign of a scam. I think Monzo would have also been concerned that Miss P had been contacted out of the blue on social media, with a financial proposition of guaranteed returns in an instant. Overall, I'm persuaded that had Monzo had a meaningful conversation with Miss P, she likely would have explained the true reason for the payments she was making. And from this information, Monzo could have identified she was falling victim to a scam and warned her of the risks of proceeding. As I've seen no reason to suggest Miss P would have still proceeded with the payments after such a discussion, I'm satisfied Monzo could have prevented further loss.

I'm also satisfied Monzo can fairly and reasonably be held liable for Miss P's loss, despite her moving funds to accounts in her own name before sending them to the scammer. I say this because the potential for multi-stage scams ought to have been well known to Monzo at the time. And as a matter of good practice Monzo should fairly and reasonably have been on the look-out for payments presenting an additional scam risk including those involving multi-stage scams. I'm satisfied Monzo should fairly and reasonably have made further enquiries before the £6,000 payment was released. And had it done so, it's more likely than not that

the scam would have been exposed and Miss P wouldn't have lost any more money. In those circumstances I'm satisfied it's fair to hold Monzo responsible for Miss P's loss.

But in order to reach a fair outcome, I need to also consider whether Miss P's actions or inactions mean she should also bear some liability for her loss by way of contributory negligence. It's not in dispute Miss P is the victim, and I'm very sorry she lost this money. But taking into account the overall scam and what was being promised, I think she ought to have held some concerns about the requests being made of her. And this should have prompted a more cautious approach from Miss P.

I understand Miss P says it was the scammer's friendly, knowledgeable and professional nature which added to the legitimacy of the scam. Similarly, Miss P says she was added into a group chat in which other third parties posted testimonials about their experience with L. However I've seen no evidence to demonstrate how persuasive such contact might have been. I'm sure the platform Miss P had access to, and the returns she received, provided Miss P with some assurances about the program she was involved in. However, I'm not persuaded the proposal made by the scammer was entirely plausible, nor did it follow the process of what you might expect to see from a legitimate employment opportunity. Ultimately Miss P was contacted out of the blue via social media, by a third party she'd had no dealings with before. She was offered a financial opportunity with guaranteed returns which was labelled as a job opportunity. And she was required to deposit money into the job opportunity, which I think is unusual. I think this ought to have prompted a higher level of care than Miss P demonstrated here, and so I'm satisfied she can fairly be held partially liable for her loss.

Recovery of funds

Monzo has evidenced it took steps to contact one of the firms Miss P sent her funds to. However as I understand it, Miss P sent funds to two different firms. Given Miss P made the payments to her own accounts held with other firms, I'm not persuaded there's anything Monzo could have done to recover her funds. I say this because she confirmed she sent the funds to her own accounts and then on to the scammer. I also would not expect Monzo to raise a fraudulent claim against Miss P's own accounts. So, on the balance of probabilities, I don't think any recovery attempts would have been successful in this case.

Putting things right

Monzo should refund 50% of Miss P's outstanding loss from and including payment 17, which is where it ought to have intervened. Monzo missed an opportunity to prevent Miss P's loss from this point, however Miss P's actions have fallen below what I'd consider to be reasonable in such cases and therefore she should share liability for her loss.

As Miss P borrowed the funds from a family member's business and personal funds, I would not expect Monzo to award any interest on the refund as there's been no deprivation of funds which were borrowed from a third party at no cost to Miss P.

My final decision

For the reasons I've explained above, I uphold this complaint.

If Miss P accepts my decision, Monzo Bank Ltd should:

- Refund 50% of Miss P's outstanding loss from and including payment 17 to payment 19, which I calculate to be £7,995.50 (50% of the payments of £6,000, £9,000, and £1,000 less the return of £9 received on 29 October 2022)

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 12 January 2024.

Meghan Gilligan
Ombudsman