

The complaint

Miss J has complained that Monzo Bank Ltd (“Monzo”) will not refund the money she lost as the result of a scam.

What happened

Both parties are familiar with the details of the scam so I will provide only a summary here. Miss J noticed on a social media platform that a friend had invested and made substantial profits with a company that I will call B. Miss J contacted B and consequently sent funds to a crypto exchange the funds were then exchanged into crypto which was sent onto B. Miss J’s sister also sent Miss J funds to “invest” with B. Miss J tried to make three transactions on 19 July 2022 via a crypto currency exchange these were returned. Miss J then made the following transactions via a different crypto exchange and the payments were made using a debit card.

Transaction number	Date	Amount	Merchant
1	19/07/2022	£500	Moonpay
2	19/07/2022	£60	Moonpay
3	19/07/2022	£1,000	Moonpay
4	19/07/2022	£120	Moonpay
5	19/07/2022	£250	Moonpay
6	20/07/2022	£830	Moonpay
7	20/07/2022	£55	Moonpay
8	20/07/2022	£600	Moonpay
9	21/07/2022	£1,650	Moonpay
10	21/07/2022	£850	Moonpay
11	22/07/2022	£1,070	Moonpay

Miss J tried to withdraw some of her “profits”. She says she was unable to do so and therefore she realised that she had been scammed. Miss J raised a fraud claim with Monzo but it rejected her claim.

Our investigator upheld the complaint in part because he thought that Monzo should have intervened at transaction 1 and had it done so the scam would have been stopped. He therefore thought that all the transactions after this point should be refunded. The reason he concluded this was because the three failed transactions to a different crypto firm in short succession followed by transaction 1 to a different crypto exchange on an account which had not had that type of transaction before should have been considered out of character and have prompted an intervention from Monzo.

He did though after some back and forth decide that there should be a 50% reduction to the refund as Miss J was promised unrealistic returns and had she done some research on B then it would have shown scam warnings for companies that shared similar names to B. So, he thought that Miss J contributed to her own loss.

Neither party agreed with this outcome and therefore this complaint was passed to me to issue a decision.

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.

There’s no dispute that Miss J made and authorised the payments. Miss J knew who she was paying, and the reason why. At the stage she was making these payments, she believed she was transferring funds to invest in crypto. I don’t dispute Miss J was scammed and she wasn’t making payments for the reason she thought she was, but I remain satisfied the transactions were authorised.

It’s also accepted that Monzo has an obligation to follow Miss J’s instructions. So, in the first instance Miss J is presumed liable for her loss. But there are other factors that must be considered.

To reach my decision I have taken into account the law, regulator’s rules and guidance, relevant codes of practice and what was good industry practice at the time. To note, as the payments were debit card payments the principles of the Contingent Reimbursement Model (CRM) code do not apply in this case.

This means I think that Monzo should have:

- been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.

- in some circumstances, irrespective of the payment channel used, taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

I think Monzo should be liable for payments 1 onwards. I'll explain why below.

I think Monzo ought to have carried out further checks and spoken to Miss J before processing this transaction. It was a larger payment than Miss J usually made, was to a new payee, it was a payment made to a crypto exchange (Miss J had held her account for a while and Monzo should have recognised that Miss J was not in the habit of making payments to a crypto exchange) and it was preceded by a number of declined transactions to a different crypto exchange. This combination of factors in this particular case was unusual enough that it really should have prompted an intervention from Monzo.

I also appreciate that Miss J's loss didn't materialise directly from her Monzo account in these circumstances. But even though she was transferring funds to a crypto account in her own name, I still think that Monzo ought to have taken a closer look at payment 1 – given the significant risk of fraud associated with cryptocurrency investments at the time.

The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018. And by January 2019, cryptocurrency scams continued to increase in frequency. So, by the time Miss J started making her investments in July 2022, it is reasonable to say Monzo ought to have had a good enough understanding of how crypto scams work – including the fact that their customer often moves money to a crypto account in their own name before moving it on again to the scammers.

Therefore, I'm satisfied that Monzo should've had mechanisms in place to detect and prevent this type of fraud at the time Miss J was making this payment, and that it should have led to it intervening to ask further questions about payment 1.

I would expect Monzo to have intervened and asked Miss J who the payment was for, what it was for, and for the surrounding context of the payment - it could, for example have, asked how she had been contacted, whether she'd parted with personal details in order to open a trading account, whether she was being helped by any third parties e.g. a broker, and how she had come across the investment.

I have no reason to believe Miss J wouldn't have been open with Monzo, and I think she would have taken its intervention seriously. So, I think Monzo would have quickly learned from its conversation with Miss J the basic background to the payment instruction – that she was buying cryptocurrency and then sending onto what she thought was a cryptocurrency type trading platform which she'd decided to pursue after learning about it via a friend's post on social media.

Even though the conversation would have identified the payment was going to Miss J's own crypto account (before being sent onto the scammers), the conversation shouldn't have stopped there on the basis that the money appeared to be going to somewhere safe and within Miss J's control. This is because by this point Monzo was well aware – or ought to have been well aware – of how scams like this work – including that the customer often moves money onto a crypto account in their own name before moving it on again to scammers.

So, I think Monzo would have been concerned by what the conversation would most likely have revealed and so warned Miss J, explaining the typical characteristics of scams like this. Had it done so I think Miss J would have listened and recognised she was at risk. I am satisfied she would have had second thoughts if Monzo had intervened effectively.

It therefore follows I think Miss J would not have gone ahead with payment 1 or the payments afterwards.

I've considered carefully whether Miss J should hold some responsibility for her loss by way of contributory negligence. In this instance B had promised Miss J a 1000% return on the funds that she invested. This is considerably too good to be true and therefore I don't think anyone could reasonably have thought that this was a legitimate company to deal with. I also don't think that Miss J did her due diligence prior to "investing" with B as there are a number of reviews and FCA warnings for companies that have a very similar name to B and had Miss J searched for information about B I think she would have discovered she was not dealing with a legitimate company.

So overall and having considered everything I think that Miss J contributed to her own loss and therefore I feel that it would be appropriate to reduce the amount of compensation due to Miss J by 50%.

I have thought about whether Monzo could have recovered the funds via a chargeback but in this instance as the funds were sent to a crypto account in her own name and were used to buy crypto I don't think a chargeback would have been successful as she essentially got what she paid for. I also don't think that there was any other way to recover the funds.

Putting things right

Monzo will have to

- Refund 50% of the disputed transactions
- Add 8% simple interest annually on those sums from the date they were paid to the date of settlement less any tax lawfully deductible

My understanding is that of the funds transferred to B £1,165 was from Miss J and the remaining was from her sister. As the majority of the disputed transactions had been funded by Miss J's sister, has a claim to the relevant funds from the refund. It would be for Miss J and her sister to decide how the returned funds are divided between themselves.

Also my understanding is that Miss J I has entered into an IVA agreement. Her IVA practitioners have confirmed their interest in any redress due as a result of this complaint. As such Miss J should contact the IVA practitioner to discuss what needs to happen with the money she receives.

My final decision

I uphold this complaint in part and require Monzo Bank Ltd to pay the redress outlined above

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 5 January 2024.

Charlie Newton
Ombudsman