

The complaint

Mr V complains that Monzo Bank Ltd (“Monzo”) won’t refund money he lost after falling victim to an investment scam.

What happened

As both parties are familiar with the circumstances of this complaint, I’ve summarised them briefly below.

In summary, Mr V in October 2022 decided to invest his money using the services of someone who had approached him on a social media platform. The individual informed Mr V that they traded for people in Forex who have little or no knowledge in forex trading. That they had three analysts who analyse the market and then its brokers will place trades on behalf of their clients.

After the individual provided Mr V with information about how the investing worked, Mr V was persuaded it would be worth investing his money with them.

Unfortunately, the individual that had contacted Mr V was a fraudster. Mr V made payments to the details given to him by the individual (whom he believed was a broker placing the trades). Mr V was told that an investment of £250- £350 could earn approximately £6,540+ and the process took only two to three hours and so, any returns would be received the same day.

Mr V initially made a payment of £250 from an account he held with a different bank. He then made two payments from his Monzo account totalling £2,750. The first payment made on 23 October 2022 for £1,500 was for what Mr V believed was a liquidation fee to receive his money. He then made a payment of £1,250 on 24 October 2022 for what he believed was a further fee after his returns had increased in amount.

Mr V was then asked for a further payment at which point he realised he’d fallen victim of a scam and, he contacted Monzo to let it know.

Mr V reported the matter to Monzo on 26 October 2022. Monzo didn’t consider it was liable for the losses Mr V incurred – it didn’t feel Mr V took reasonable steps to check who he was paying. Monzo also reached out to the beneficiary bank (the bank where the payments were sent to) to see if any funds remained that could be recovered. Unfortunately, Monzo received a response advising that no funds remained. However, it did credit Mr V account with a £25.00 gesture of goodwill in recognition that his complaint ought to have been acknowledged sooner than it was.

Unhappy, Mr V brought his complaint to our service. Our Investigator reviewed the matter and didn’t recommend the complaint be upheld. Ultimately the Investigator explained the ‘Contingent Reimbursement Model (‘CRM code’) which Monzo adheres to the principles of, was applicable to the payments Mr V made. She explained that the CRM Code is a voluntary 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.

While the payments were covered by the CRM Code, our Investigator considered Monzo had fairly applied an exception to reimbursement – namely that Mr V didn't have a reasonable basis of belief when making the payments. And given the value of the payments she didn't think Monzo needed to provide an 'effective warning' as part of the payment process. Our Investigator was also satisfied that had Monzo contacted the receiving bank as soon as it was aware of the scam that it wouldn't have made a difference in this case to the recovery of Mr V's funds. This was because she was mindful Mr V reported the scam to Monzo two days after the last payment was made – and so, she was persuaded on balance, that it was more likely that the money was moved as soon as it was received as is often the case.

As Mr V disagreed with the Investigator's opinion and as the matter hasn't been resolved, it's been passed to me to decide.

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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. There's no dispute here that Mr V authorised these payments.

However, under the CRM code, a firm is expected to reimburse a customer who is the victim of an APP scam, like Mr V. Monzo hasn't signed up to the code, but it has agreed to follow its provisions. There are a limited set of circumstances set out in the code in which a firm can choose not to reimburse its customer. One such circumstance (and the most relevant in this case) is where it can be demonstrated that the customer made the payments without having a reasonable basis for believing that:

- The payee was the person the Customer was expecting to pay;
- The payment was for genuine goods or services; and/or
- The person or business with whom they transacted was legitimate.

Monzo says it won't refund Mr V's losses because it didn't think he had a reasonable basis for belief when making the payments - that he didn't take reasonable steps to check who he was paying. I've considered that point carefully and I agree with that conclusion. I will now set out my reasons why.

Mr V was approached by an unknown individual via a social media platform and asked if he was interested in investing money. From the messages I've seen between Mr V and the individual, Mr V himself expressed that he was dubious from the outset of the conversation. While I note the individual he was messaging explained how the investing would work and what approximately he could earn from a small investment of £250 - £350, I've not seen that any evidence or information was provided that satisfied Mr V that the person he was speaking with was who they said they were or that they were providing genuine goods or services, prior to him proceeding to make the payments.

I do recognise Mr V in his response to our Investigator has raised that he had no knowledge of trading, nor did he have any understanding of how fraud works and so how would he know he was being scammed. But I'm persuaded Mr V comments about his lack of knowledge ought fairly and reasonably to have prompted him to question what he was being told. Mr V has said he was reassured by the photo's he was sent of the money waiting to be paid to him. However, I think there were flags that ought to have prompted Mr V to proceed with more caution than he did, which I will go on to explain.

I think what Mr V was told about the approximate profits/return on his investment was unrealistic. He was told for an investment of £250-£350 he could expect to earn around £6,540+ and that the process took around two to three hours with returns received the same day. I also note in the messages with the individual that Mr V was told that it was 100% safe and legitimate and guaranteed to make a profit. I think Mr V ought to have treated what he was being told about the investment with more caution – especially when taking into account that I'm persuaded Mr V himself recognised what he was being told was too good to be true as indicated by his comments in the messages I've seen. It appears Mr V simply accepted and took what he was being told by an individual he'd never met at face value, when reasonably I think what he was being told should have caused concern.

I'm further mindful that Mr V was asked to make payments to an individual he was told was a broker. I've not seen any information that shows Mr V, prior to making the payments, asked any questions or took any steps to verify that the person he was making a payment to was in fact who he was being told he was paying – that they were indeed a broker for the company or connected to the person he believed he was speaking with. It follows that, I think this would've been reasonable grounds for suspicion, but as far as I can see, Mr V didn't question this with the fraudster until after he'd made the payments.

In this case, Mr V was told he'd earned around £9,935 after he made his initial payment of £250 from an account he held with a different bank. It was around this point that he was sent a chart for what he was told showed how the trade was doing and he commented in the messages to the individual that he kept expecting the profile to disappear. This suggests to me that Mr V wasn't satisfied that who he was speaking to was legitimate.

Mr V was then told that his profits had further increased to £19,870.98 and he agreed to close the trade on this amount. He was asked to make a payment of £1,500 for a liquidation fee on the trade which he proceeded to make. Yet, Mr V was then told his profits had increased to £30,08.03 and told he'd need to make a further payment of £1,250 to receive the increase amount. I am aware Mr V did question this in the messages with the individual and that he was told "yea because trades are done randomly once you get started in this system that's how this works..". I don't think what Mr V was told plausibly made sense and again, I'm persuaded Mr V concerns remained as he commented he was nervous he was getting scammed out of money.

While Mr V appears to have initially refused to send the further payment of £1,250 and requested information from the individual such as proof of the funds that will be sent to him and an explanation as to how the money has risen, I can't see that this information was provided before Mr V proceeded to make the payment. He did receive what appeared to be an email sent to the individual he was in contact with, from whom they said was from one of the heads of department in charge of taxes, confirming the profit he'd made but Mr V himself commented that the email sent had really bad English. I'm persuaded Mr V ought to have had concerns about everything he was being told and acted more cautiously. I can see after he made the payments Mr V told the individual that he'd checked and he didn't need to pay money to release the funds. With this in mind, I'm persuaded that Mr V could have and ought fairly and reasonably to have carried out such checks prior to making the payments.

With all things considered, I'm satisfied there was enough going on that should have given Mr V more than a cause for concern. To my mind it is reasonable to suggest that this should have led to Mr V questioning the legitimacy of it all and what he was being told and the returns he was being promised. So, I think Monzo have acted fairly in choosing to decline reimbursing Mr V under the CRM Code under the grounds that an exception to reimbursement applies.

Good industry practice requires that regulated firms such as Monzo engage in the monitoring of customer accounts and to be on the lookout for suspicious or out of character transactions with an aim of preventing fraud and protecting customers from financial harm. And under the CRM Code, where it identified a risk of a customer falling victim to an APP scam, it was required to provide that customer with an "effective warning".

We now know, with the benefit of hindsight, that Mr V was falling victim to a scam. But based on the information that was available to it at the time, I don't consider Monzo would've had any reasonable basis for coming to that conclusion. I say this because, I'm not persuaded the payments would have appeared so out of character or unusual. The payments weren't particularly large or remarkable. So I don't think the CRM Code required that Monzo display an effective warning as part of the payment process, and I'm not persuaded it would've had any grounds for intervening to question the payments with Mr V before allowing them to be processed.

I have also considered whether Monzo did all it could to try and recover the money Mr V lost. From what I've seen, Monzo didn't act quickly enough to attempt to recover Mr V's losses after he notified them that he'd fallen victim to a scam. But from the evidence gathered from the receiving bank, I can see that this wouldn't have made any difference. By the time Mr V told Monzo what had happened, his funds had already been moved out of the account.

For completeness, I note Monzo in its final response letter to Mr V said it's credited £25.00 as a gesture of goodwill in recognition of a delay in acknowledging his complaint. I appreciate that this will have been frustrating to Mr V but I am mindful this did not prevent him from referring his complaint to our service. So it follows that I make no further recommendation on this point.

I do recognise Mr V has been the victim of a cruel scam and he has my sympathy. But for the reasons I've explained, I'm not persuaded Monzo can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 17 January 2024.

Staci Rowland
Ombudsman