

The complaint

Mr D complains that Monzo Bank Ltd (Monzo) is refusing to refund him the amount he lost as the result of a scam.

Mr D is being represented by a third party. To keep things simple, I will refer to Mr D throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr D was looking online for ways to boost his income when he came across Mayfair Exchange (X). The website looked legitimate showing live trading information. The website also showed the business's authorised trading information including its FCA registration information.

Mr D created an account on the website and within a few days received a call from X. X helped Mr D complete his account setup and told Mr D that he would have to make payments into the investment in crypto.

Mr D realised he had fallen victim to a scam when he found X was not registered in the UK, and when he attempted to make a withdrawal from the account, he was told he would have to pay fees first. X also asked Mr D to download AnyDesk (a screen sharing application) so X could help him with the process, but a member of Mr D's family warned him against downloading the application as it is commonly used in relation to scams.

Mr D made the following payments into the scam via his Monzo account:

<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
24 May 2021	Cryptopay	Debit Card	£7,075
25 May 2021	Cryptopay	Debit Card	£2,100

Our Investigator considered Mr D's complaint and thought it should be upheld in part. Monzo disagreed, so this complaint has 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.

It has not been disputed that Mr D has fallen victim to a cruel scam. The evidence provided by both Mr D and Monzo sets out what happened. What is in dispute is whether Monzo should refund the money Mr D lost due to the scam.

Recovering the payments Mr D made

Mr D made payments into the scam via his debit card. When payments are made by card the only recovery option Monzo has is to request a chargeback.

The chargeback process is in place to refund customers when they pay for goods or services on their card that are not received. In this case Mr D knowingly purchased crypto via Cryptopay and this service was provided to him. Therefore, the chargeback option would not have been available to him as his dispute is with X, not Cryptopay, and Mr D doesn't dispute receiving Crypto in exchange for his payment – so any chargeback attempt against Cryptopay would likely fail.

Should Monzo have reasonably prevented the payments Mr D made?

It has been accepted that Mr D authorised the payments that were made from his account with Monzo, albeit on X's instruction. So, the starting point here is that Mr D is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Monzo should have been aware of the scam and stepped into question Mr D about the payments he was making. And if it had questioned Mr D, would it have been able to prevent the scam taking place.

The first payment Mr D made in relation to the scam was for the value of £7,075. This payment was substantial, to a new business linked to cryptocurrency and was not in keeping with how Mr D normally operated his account. So, I think it should have triggered Monzo's fraud prevention systems prompting Monzo to step in and question him about it.

Had Monzo stepped in and questioned Mr D I don't see any evidence to suggest Mr D wouldn't have answered its questions truthfully. So, Monzo would likely have found that Mr D was making investments with a broker he had found online and was having to make payments in crypto. I think Monzo would have either uncovered that Mr D was experiencing a scam, or prompted him to do more research, and he would have found this out for himself.

Monzo is therefore responsible for the payments it processed in relation to the scam.

Did Mr D contribute to his loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, I do think it would be fair to reduce compensation by 50% on the basis that Mr D should share blame for what happened. I think it would be reasonable to say Mr D should have carried out a reasonable amount of research before sending large payments, investing with a business he had found online. At the time Mr D was making the payments there was negative information about X available online that could have been found using a simple internet search tool. There was also a warning on the FCA website that Mr D would likely have found had he carried out a little more research.

In addition to other points raised by Monzo have been addressed above, Monzo has also stated that there is an established legal precedent (see *Phillp v Barclays*) that customers are expected to be able to make transactions as they please.

Whilst Monzo was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements, and what I consider having been good practice at the time, it should fairly and reasonably have been on the look-out for the possibility of this type of scam and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including Monzo, do.

In this case for the reasons I have explained, I'm satisfied Monzo should have intervened. Whilst it's not for me to provide a list of questions Monzo should have asked, I consider Monzo ought reasonably to have established how Mr D found out about the investment opportunity, whether anyone was helping him, what he understood about the investment and the rate of return he expected.

As I've said above, I think this would have likely led to the scam being uncovered.

So, the additional points raised by Monzo don't change my decision.

Putting things right

To put things right Monzo Bank Ltd should refund the payments made into the scam less 50%. Monzo Bank Ltd should add 8% simple interest to the amount it pays Mr D from the date of loss to the date of settlement (less any lawfully deductible tax).

My final decision

I uphold this complaint and require Monzo Bank Ltd to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 19 March 2024.

Terry Woodham
Ombudsman