

The complaint

Mr H complains about Monzo Bank Ltd.

He says that Monzo didn't do enough to protect him when he became the victim of a scam and would like Monzo to refund him the money he has lost.

What happened

Mr H was contacted via WhatsApp by an individual who said they were a representative from Blockchain who had information about money Mr H had previously lost to a scam.

The individual had information about the money Mr H had previously lost to a scam, and so he was reassured about the legitimacy of the call. He was directed to view the website of the company the individual worked for and was impressed with the seemingly professional nature of the set up.

Mr H was told that he would need to pay an amount in cryptocurrency to match the funds he had lost – now valued at around £19,000 and that he would then receive the missing funds, less a commission fee.

Mr H signed a contract and made the following payments.

Date	Payee	Transaction type	Amount
2 March 2023	Wirex	Debit card	£2,141.79
6 March 2023	Nexo.io	Debit card	£4,657.05
7 March 2023	Nexo.io	Debit card	£4,657.05
8 March 2023	Nexo.io	Debit card	£4,657.05
		Total	£16,112.94

*An initial payment of £72.52 was also made, but this has not been complained about by Mr H and wouldn't affect the outcome of this complaint.

Unfortunately, Mr H was being scammed, and lost the money. Mr H complained to Monzo, but it didn't uphold his complaint.

Mr H then brought his complaint to this Service and our Investigator looked into things. They thought that the complaint should be upheld from the second payment, but that responsibility should be shared between Mr H and Monzo on a 50% basis each.

Mr H agreed to the Investigators view, but Monzo did not. In summary, it said;

- Mr H paid money to a crypto account in his own name – implying that the loss happened from Mr H's crypto account and not Monzo
- Payments to crypto are legitimate payments, and many customers use Monzo to make such payments as they are restricted by other banks
- The payments were made over a number of days and not immediately in quick succession
- It has not been made aware of any vulnerabilities that may have made Mr H more susceptible to scams.

As no agreement was reached, the complaint has been passed to me to make a final 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.

Having done so, I've decided to uphold this complaint in part, for broadly the same reasons as our investigator. I'll explain why.

It isn't in dispute here that Mr H has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

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 having been good industry practice at the time.

In broad terms, the starting position at law is that a banks, electronic money institutions (EMI's) and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr H authorised the payments in question here – so even though he was tricked into doing so and didn't intend for his money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, Monzo should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider having 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 banks 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 declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether Monzo acted fairly and reasonably in its dealings with Mr H when he authorised payments from his account or whether it could and should have done more before processing the payments.

Looking at the payment journey, I don't think that the first payment Mr H made required Monzo to have intervened in any way – it wasn't for an unusual or suspicious amount, and as I've explained above, Monzo can't be expected to be involved in every transaction.

However, by the time Mr H made the second payment, I think that Monzo should have had some concerns about what was going on – the payments Mr H were making had more than doubled in one day and were going to crypto. So, I would have expected Monzo to intervene and provided Mr H with a tailored written warning about crypto scams – but it did not do so.

I know that Monzo has said that payments to crypto are legitimate – but while Nexio.io is a legitimate crypto exchange, Monzo should also know that crypto payments carry an elevated risk for scams and fraud, and so should be on the lookout for such scams to protect its customers from financial harm. I also don't agree that the payments were not made in quick succession – they doubled over the course of one day.

Monzo should also be aware that a common tactic of scammers is to get a customer to pay into a crypto account in their own name before tricking the customer to move the money on to the scammer.

So, I think that it should have provided a tailored effective warning to Mr H at this time, to cover the common traits seen with crypto scams and what to look out for. Had Monzo done this, I think that Mr H would have taken note of such a warning – and more carefully considered what he was being asked to do, and I don't think he would have continued with the payments.

The only thing left for me to consider is if Mr H should bear some responsibility by way of contributory negligence for his loss – and I agree with our Investigator that responsibility should be shared between Mr H and Monzo from the point I think the payments should have been stopped.

I say this because I think that Mr H should have had some concerns himself about what he had been asked to do. Blockchain is a crypto exchange itself – and not a loss recovery company, which I think Mr H could have uncovered had he done independent research rather than just visit the website he was directed to by the individual that called him. And while it may be plausible to pay some commission or fees to a recovery company, I wouldn't expect this to be paid upfront – and the amount Mr H was told he should pay upfront was as much as the supposed recovered funds were worth.

So, I think Mr H should have noticed these red flags himself, and it is fair that he should take equal responsibility here.

Putting things right

Monzo Bank Ltd should pay Mr H 50% of the payments from the point I think that it should have shown Mr H a tailored warning.

I calculate this to be £6,985.57.

Monzo Bank Ltd should also pay Mr H 8% simple interest on this amount from the date the payments were made until settlement (less any lawfully deductible tax).

My final decision

I uphold this complaint in part. Monzo Bank Ltd should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 22 May 2024.

Claire Pugh
Ombudsman