

The complaint

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

Mr M is being represented by a third party. To keep things simple, I will refer to Mr M 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 M was researching cryptocurrency investments online when he came across a platform call Jet Capital (X). Mr M says he carried out some research on X and was unable to find anything negative. Interested in the potential opportunity Mr M completed an online data caption form with his personal information.

Mr M then received a call from X who talked him through the investment process and requested identification documents from him so an account could be setup. As part of the training process X also explained to Mr M that he was required to download the remote access software AnyDesk.

Mr M was then given access to a trading platform that looked very professional and legitimate.

Mr M started making payments in relation to the investment as instructed by X and appeared to be making a reasonable return. Mr M was also able to make several withdrawals which gave him further confidence the investment was legitimate.

As Mr M's funds started to run low X persuaded him to take out a loan. Mr M tells us that X completed the loan application on his behalf using the remote access software AnyDesk and the loan was approved.

Mr M was advised to invest further, and X suggested he should re-mortgage his home. At this stage Mr M realised he had fallen victim to a scam.

Mr M made the following payments in relation to the scam from his Monzo account:

Date	Payee	Payment Method	Amount
28 July 2021	Cryptopayin	Debit Card	£190.89
2 August 2021	Coinbase	Transfer	£5,000.00
6 August 2021	Coinbase	Transfer	£500.00
6 August 2021	Coinbase	Transfer	£4,000.00
7 August 2021	Coinbase	Transfer	£100.00
7 August 2021	Coinbase	Debit Card	£100.00

9 August 2021	Coinbase	Transfer	£9,800.00
10 August 2021	Coinbase	Transfer	£5,100.00

Our Investigator considered Mr M's complaint and thought it should be upheld. 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 M has fallen victim to a cruel scam. The evidence provided by both Mr M and Monzo sets out what happened. What is in dispute is whether Monzo should refund the money Mr M lost due to the scam.

Recovering the payments Mr M made

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

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr M was dealing with the scammer, which was the business that instigated the scam. But Mr M didn't make the debit card payments to the scammer directly, he paid a separate cryptocurrency exchange. This is important because Monzo was only able to process chargeback claims against the merchant he paid, not another party.

The service provided by the cryptocurrency exchange would have been to convert or facilitate conversion of Ms M's payments into cryptocurrency. Therefore, it provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchant Mr M paid.

When payments are made by transfer Monzo has limited options available to it to seek recovery. Monzo did contact Coinbase, but Coinbase confirmed that all the funds Mr M had sent to it had been moved on.

With the above in mind, I don't think Monzo had any reasonable options available to it to recover the payments.

Should Monzo have reasonably prevented the payments Mr M made?

It has been accepted that Mr M authorised the payments that were made from his account with Monzo, albeit on X's instruction. So, the starting point here is that Mr M 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 intervened when Mr M made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The first payment made in relation to the scam was for a low value that I wouldn't have expected to trigger Monzo's fraud prevention systems. So, I don't think it was unreasonable that Monzo didn't step in when this payment was made.

When Mr M made the second payment in relation to the scam the value was much higher (£5,000) and when making the payment Monzo did intervene. Mr M indicated he was sending the payment to a 'safe account'. It's unclear why he picked that option given that wasn't the reason for him sending the payment and investing was an option he could have selected.

Monzo provided a warning about safe accounts, but that would have meant very little to Mr M as that wasn't what he was doing. I accept it's no fault of Monzo's that Mr M chose that option. Nevertheless, that was the information Monzo was provided with when the payment was being made. I'm not aware of any legitimate reason as to why someone would need to move money to a safe account – given that, Monzo ought to have been on notice that something very untoward was happening and had sufficient concern that Mr M was at risk of financial harm, such that it ought to have delayed the payment and spoken to him before allowing it.

Had it done so, it would have likely come to light that Mr M was sending the payment for an investment and if Monzo had probed appropriately and asked questions about the investment, with its own experience about scams like that Mr M was experiencing, including the use of AnyDesk, I think it's likely it would have unravelled the scam and been able to warn Mr M accordingly.

Had Monzo warned Mr M having carried out a detailed intervention I think it's most likely it would have prevented the scam from continuing. Monzo is therefore responsible for all the payments Mr M made into the scam from the second payment for the value of £5,000.

Did Mr M 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 M should share blame for what happened. Mr M has provided a copy of the chat history with X and it is clearly unprofessional language. Having carried out my own search on X there is limited information available to suggest Mr M was dealing with a legitimate business. Overall, I think Mr M should have taken more care before making the payments.

Putting things right

To put things right I require Monzo Bank Ltd to refund the payments Mr M made in relation to the scam less 50% from the second payment of £5,000, less any refunds received.

Monzo Bank Ltd should add 8% simple interest to the amount it pays Mr M (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 outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 July 2024.

Terry Woodham
Ombudsman