

## The complaint

Mr H is unhappy that Monzo Bank Ltd decided not to refund him, after he was the victim of an investment scam.

Mr H is being professionally presented in the complaint he has brought to our service. I'll refer to his representatives as J.

## What happened

In summary, Mr H was contacted by scammers pretending to offer an investment opportunity in cryptocurrency.

Mr H set up a cryptocurrency account in his own name and made a series of payments as instructed by the scammers.

- He made two payments of £1,200 each, in September 2023 from an account with Bank A.
- A week later he received a credit of £1,000 and says he was told these were his returns. Bank A gave Mr H the payment reason and it was in fact a bounced/returned payment that couldn't be made.
- He attempted to make a £10,000 payment, in November 2023 from an account with Bank B, but this payment was blocked, and Mr H was told this was a scam. Mr H then transferred these funds to his Monzo account.
- He then made four payments from his Monzo bank account, between December 2022 and January 2023, totalling £25,000.

Mr H said he then tried to access the trading platform but was unable to do so and realised he'd been scammed. He contacted Monzo to raise a scam claim.

Monzo said:

- Mr H received a new payee warning. And then a low friction warning. Which said:  
*Could someone be trying to scam you?*  
*Stop if:*  
*You were told your account is at risk, to make an unexpected payment, or to take out a loan*  
*The offer sounds too good to be true*  
*You haven't double checked who you're paying*  
*You were told to ignore warnings like this*  
*You may lose money if this is a scam*  
*If you're at all unsure, stop and get advice*
- It said the payments Mr H made were not covered by the CRM code and they were not suspicious, so it made no error in processing the payments.
- It also said as the payments were made to Mr H's crypto wallet there was no loss suffered at this point. The loss occurred at the point the funds moved on from the crypto wallet.
- As the payments were made to Mr H's own crypto account it did not attempt to

recover the funds.

One of our investigators looked into things. In summary the investigator said:

- The complaint is not covered by the CRM code.
- But Monzo ought to have considered the payments from Mr H's account as unusual. The account had recently been opened and the account opening purpose was in-line with the scam payments. But the payments were of high value and made to cryptocurrency and Monzo ought to have recognised that this represented a scam risk.
- As the first payment represented a scam risk, she said Monzo ought to have intervened. And when it intervened it ought to have asked relevant questions about the payment Mr H was making and the potential scam risk that this represented. She set out the types of questions Monzo ought reasonably to have asked. She then concluded that if Monzo had asked these questions, it's likely the scam would have been exposed.
- She said although there was some evidence that Mr H was being coached by the scammers, she wasn't persuaded he would have been dishonest or would have lied or given a cover story if questioned by Monzo about the payments.
- She was persuaded that if proportionately questioned Mr H would have revealed what he was doing, who he thought he was dealing with, the returns he was promised, and had received, and the scam would have been exposed.
- The investigator referenced an interaction that Mr H had with Bank B prior to any of the payments made from his Monzo account. Bank B had asked some questions and uncovered the scam and refused to release the payment. She went on to say better questioning by Monzo would have also likely left it concerned about the risks of the payments he was making, even if Mr H wasn't aware of the scam.
- She went on to say that Mr H should also bear equal responsibility for his losses. She said although there were some elements of the investment which seemed legitimate, she thought Mr H ought to have carried out some checks to ensure he was dealing with a legitimate firm. For example, by obtaining contracts, investment certificates and the terms of the investment.
- The investigator also said there were clear red flags that the person Mr H was dealing with was not who he said he was. He didn't provide any contracts or official documentation, promising quick profits, and asking for additional funds to be added to this account.
- And Mr H discussed payments, as part of this scam, with Bank B, and was warned it was a scam but continued anyway.
- The investigator recommended a 50% refund, plus 8% simple interest from the date of the payment to date of settlement.

The consumer, via J, accepted the recommendation.

Monzo didn't accept and said it didn't agree that the payments were suspicious. They were made to an account in Mr H's own name, and it had an obligation to make payments on Mr H's account as per his instructions. Interrupting these payments would have been inappropriate.

The investigator responded to say that Monzo did not need to follow its consumers instructions where it reasonably believed the payment instruction was the result of an APP fraud, And Monzo's terms and conditions said it could block payments if it suspected criminal

activity on customers' account. So, she was satisfied that Monzo could, and in this instance, ought to have considered the payments as unusual and taken steps to intervene.

Monzo's continued to disagree and added that the payments that Mr H made were in line with the account opening reasons that Mr H gave, so they were not out of character. As the complaint couldn't be resolved it has been passed to me.

I reviewed the complaint in full and didn't agree with the investigator's findings. I considered the call Mr H had with Bank B, (when he attempted a £10,000 payment in November, and he was told this was a scam, but then continued making payments), as central here. In this call Mr H was told numerous times, that this was a scam. He was also given several ways in which he could verify this for himself, he didn't do any of those things and continued with the payments. So, although I thought Monzo ought to have intervened, I didn't think better intervention would have made a difference in this instance.

J responded to say Monzo has tried to delegate all responsibility of intervention to Bank B. It added that at the time of the call with Bank B, Mr H had invested thousands of pounds and had been told by the scammers that banks do not like cryptocurrency, so he may receive some push back or be advised it was a scam. And at that point the scammer would have been right about the sort of intervention Mr H had received. But J argues that; if a second bank, here Monzo, had intervened, this would have contradicted what the scammer had said and caused reasonable doubt, prompting Mr H to question the true nature of the scam.

J didn't accept my provisional findings. Monzo hasn't responded by the deadline I've set. So, I've now considered everything again, before reaching a final decision on the matter.

### **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'm not minded to change my findings from those set out informally to both parties, and I don't uphold this complaint. I'll set out my reasons in full below.

In broad terms, the starting position at law is that a bank, payment service provider or electronic money institution is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And I have taken that into account when looking into what is fair and reasonable in this case.

I've considered whether there was anything about the circumstances surrounding the payments that could have put Monzo on notice that they were being made as part of a scam.

I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Monzo should *fairly and reasonably* have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances.

Monzo ought only do this, where it did, or ought to have identified, that Mr H might be at heightened risk of fraud.

I agree with the investigator that the payments Mr H made from his Monzo account did represent a scam risk to the extent that Monzo ought to have intervened. Mr H made four payments from his account, the first for £10,000. I'm satisfied this first payment to a

cryptocurrency provider at this value, on a newly opened account represented a scam risk that meant Monzo ought to have intervened with the payment and discussed it with Mr H. And even if Monzo hadn't identified the payment destination, then the value of the payment alone is enough for it to have reasonably considered that Mr H was at risk of being scammed and taken steps to discuss the payment with him.

But importantly, I'm satisfied that if Monzo had intervened with Mr H's payment, I don't think it would have made a difference in this case. I'll explain why.

Causation is a critical determination factor in every fraud case. I need to be satisfied that suitable intervention would have made a difference to Mr H's decision making or that Monzo could have reasonably prevented the loss. In doing so, I reach my decision on the balance of probabilities – so what I consider more likely than not based on the evidence and wider circumstances of the case.

As set out in my informal provisional findings, with both parties, Mr H had a call with a Bank B, just over a week before he made the first payment from his Monzo account. I've listened to this call carefully and provided J with a transcript. In the call Mr H is initially hesitant to provide further information about what he's doing when questioned. Eventually the bank advisor is able to unearth that Mr H is sending money to a crypto wallet in his own name and he's being guided by someone else to do this and advised about what trades to make. The bank advisor also identifies that the returns Mr H says he's making are unlikely to be real or realistic. He identifies that Mr H found out about this opportunity on a popular morning TV show, at which point the bank advisor is confident that Mr H is being scammed. The bank advisor tells Mr H 15 times that he's being scammed or that what he is doing is a scam. Mr H doesn't accept this and the bank advisor offers up several different opportunities for Mr H to verify that he is in fact being scammed or indicators about what he's said that make this a scam. Those are:

- The advert would not have been on the TV, but faked, lots of people have fallen victim to this type of scam – Mr H is advised to carry out an internet search with a few key words, where he could see it's a scam.
- A trader wouldn't genuinely give him advice like this, every day, or to direct him where to trade from the crypto account.
- It's not realistic to get returns of 50% in just a few weeks or days, if he's being told this, it is a lie.
- Mr H is asked several times if he's received any funds back into his bank account from these investments – he says he did, the bank caller probes this several times (I'll comment on this further, later on in the decision). He said it's highly likely he's lost any money already paid to this person. Mr H said he'd put in £1,000 and got £100 back.
- Mr H should attempt to withdraw his funds, and if he can't that would also evidence this wasn't genuine

As far as I'm aware Mr H didn't carry out any of the steps or follow any of the guidance given by the bank caller, as set out above. If he had he would have quickly identified that he was being scammed. But instead, Mr H chose to transfer his funds to a newly opened Monzo account and make the payments to his crypto wallet from there.

I also can't see that Mr H received the returns he claimed. I've seen the statements for Bank A, where he says he received returns on his investment. But the £1,002.11 credit into his account is the return of the original payment he made. Bank A sent him a letter dated 28 September 2023, to explain the funds were returned because the receiving account didn't have the facility to accept a payment in Euros. I've also seen no evidence of a £100 credit referred to in the conversation with Bank B.

With regards to this information, the investigator asked several direct questions about the returns and this particular returned payment, as well as the conversations Mr H had with the scammer.

When asked about this J hasn't acknowledged that this payment wasn't a return and instead continued to say it was a withdrawal from Mr H's crypto account. So, Mr H hasn't provided any evidence to show he did in fact receive returns on his initial investment. Or it's the case that what Mr H thought were returns, were in fact a payment that bounced back as being non-payable, (and he was told that by the Bank A) so it's not clear why he would have thought this payment was a return on his investment.

Mr H's does raise the credit into his account with the scammer. He says "*the money has been transferred back to my personal account. The transaction document says, "NO EUR ROUTING FOR BENEFICIARY BANK"*". The scammer then agrees to call Mr H, presumably to discuss what this means. Again, we asked J what conversation took place between Mr H and the scammer, but it hasn't directly responded to this point with any detail. So, my finding here, based on the evidence I have, is that either:

- Mr H wasn't telling the truth when he told Bank B and he knew he hadn't received returns; or
- Mr H received the returns into a different account and despite being asked hasn't provided that evidence; or
- Mr H mistakenly believed a bounced/returned payment was a withdrawal from his crypto wallet - which doesn't sound logical given the description provided to him by the bank. And if the scammer had advised him that it was a return, and he wasn't sure, he could have checked with Bank A – but he doesn't appear to have done that. Or questioned this with the scammer and provided with an explanation – again we've asked J for this detail, and it's not been provided.

I'm satisfied that any of the above possibilities lead to my finding below, that either Mr H wouldn't have been truthful with Monzo if asked questions, or he was so hooked into the scam, that he believed everything he was being told, and didn't take any actions to verify any of the information he was being given and would have continued with the payments anyway. J goes on to argue that Mr H had already been told that banks don't like cryptocurrency, so he was likely to receive some push back or be advised it was a scam. And after that happened with Bank B, he was told to open a Monzo account, as it would be easier to transfer funds. J says, that if Monzo had also intervened, it would have made a difference, as it would have contradicted what the scammer said and caused Mr H to question what he was being asked to do. I can see Mr H says to the scammer that the payment had been blocked by Bank B and to call him. When we've asked J for more information about this call, we've received little detail other than he was reassured by the scammer.

I accept that a second intervention could have prompted a consumer to have doubt about what they were doing. But J and Mr H have not been able to provide a persuasive explanation as to why Mr H chose to carry on, and in particular, not carry out any of the simple checks the Bank B advised him to take, before deciding to continue to invest. Especially given the Bank B was very insistent and repeated several times that he was very likely the victim of a scam.

In the call with Bank B its clear Mr H does not accept what he is being told. And I've not been persuaded he would have stopped if Monzo had intervened as well. I also think its likely Monzo wouldn't have had such a detailed conversation. Mr H would have likely been told by the scammer to hide the truth when asked about what he was doing. I think that's likely because he's reluctant in the call with Bank B, to initially explain what he's doing. And I think it's very likely the scammers would have coached Mr H to be even more cautious about revealing what he was doing and again reassured him he would be told it was a scam. So, I

think it's very likely a conversation with Monzo wouldn't have unfolded in the same way that it did with Bank B.

But even if Monzo had been able to obtain similar details as Bank B had, then there's strong evidence to suggest Mr H would have gone ahead with the payments in any event, either from his Monzo account or from another account. So, I can't fairly say that Monzo could have reasonably prevented Mr H's losses here.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 August 2024.

Sophia Smith  
**Ombudsman**