

Complaint

Mrs I is unhappy that Monzo Bank Ltd didn't reimburse her after she told it she'd fallen victim to a scam.

Background

In mid-2023, Mrs I had been looking for work and shared her CV on a recruitment website. She was then messaged by somebody who claimed to represent a recruiter.

She was told they could offer her a job opportunity. This would involve carrying out tasks on the company's platform that would increase the marketability and exposure of certain products and hence their sales. She was told that she'd earn commission for the tasks that she completed. Unfortunately, this wasn't a legitimate job opportunity. Mrs I had been contacted by a fraudster.

The fraudster told her that, to carry out tasks on the company platform, she'd need to deposit funds into her account. To do this, she was asked to make payments to a third-party cryptocurrency platform. These funds were then converted into cryptocurrency and transferred into the control of the fraudsters. She used her Monzo account to make two payments in connection with the scam for £5,000 and £1,950 respectively.

Once she realised she'd fallen victim to a scam, she notified Monzo. It didn't agree to refund her. Mrs I was unhappy with that and so she referred a complaint to this service. It was looked at by an Investigator who upheld it in part. The Investigator noted that Monzo was expected to be on the lookout for account activity that was unusual or out of character to the extent that it might have indicated a fraud risk. She concluded that Monzo should've made enquiries with Mrs I at the point she asked it to make the first payment and, if it had done so, she was satisfied that the scam would've been prevented. However, she also thought it was fair and reasonable for Mrs I to bear some responsibility for her own losses by way of contributory negligence.

Monzo disagreed with the Investigator's opinion and so the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

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 2017 and the terms and conditions of the customer's account. Monzo has also agreed to follow the terms of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. However, the Code doesn't cover these payments.

They were payments used to purchase cryptocurrency. As a result of the transactions, Mrs I did take ownership of the underlying cryptoassets, albeit briefly. In other words, the

transactions that left her Monzo account were legitimate purchases of cryptocurrency. In summary, the CRM Code requires that she *“transferred funds to another person for what [she] believed were legitimate purposes but which were in fact fraudulent.”* The fact that she later transferred the cryptocurrency to a blockchain address controlled by the fraudster doesn’t mean that these initial payments weren’t for legitimate purposes.

Although the CRM Code doesn’t apply to these transactions, good industry practice required that Monzo be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I’d expect it to intervene in a manner proportionate to the risk identified. The Investigator thought Monzo should’ve acted in connection with the first payment, and I’d agree with that conclusion.

£5,000 is significantly larger than any of the payments made from her account in the months prior to the scam. Furthermore, Monzo would’ve known that the payee was a cryptocurrency platform. It should’ve been aware of the risks posed by scams that involved customers making cryptocurrency purchases and factored this in when assessing whether Mrs I was at risk of financial harm.

It shouldn’t have processed that payment without first making enquiries with Mrs I to satisfy itself that she wasn’t at risk of financial harm due to fraud. If it had done so, I think it’s more likely than not that it would’ve been able to prevent her losses to the scam. There’s no good reason to think Mrs I wouldn’t have responded to the bank’s queries openly and honestly. I’ve seen the communications between her and the scammer. There’s nothing there that suggests she was told that she’d need to mislead the bank if it asked her questions about the payments. This is a very commonly occurring scam type and I don’t think it would’ve been particularly difficult for the bank to have uncovered what was going on and explained things to her.

I’ve also considered whether it would be fair and reasonable for her to bear some responsibility for her own losses here. In doing so, I’ve considered what the law says about contributory negligence but kept in mind that I must decide this complaint based on what I consider to be fair and reasonable in all the circumstances. I’ve considered the evidence carefully and, while I accept Mrs I did genuinely believe that these payments were being made in connection with a legitimate employment opportunity, I’m not persuaded that belief was a reasonable one. There was no formalisation of the arrangement between her and the employer – for example, there was no written contract and indeed no clear setting out of the terms of her employment. I can see that she asked why this was the case, but the explanation she was given wasn’t a particularly satisfactory one.

In addition to that, the arrangement was an inversion of the normal employer-employee relationship. In most circumstances, people expect to be paid by their employer, rather than the other way around. Overall, I think Mrs I ought to have proceeded only with great caution and so I think it’s fair and reasonable for Monzo to make a 50% deduction from the redress payable to her.

I’ve also taken into account that the loss she suffered didn’t occur from the Monzo account. She did genuinely make purchases of cryptocurrency and took ownership of the underlying assets. It was only when she transferred that cryptocurrency on to the fraudster that she sustained any loss. Nonetheless, Monzo ought to have been aware of the risk of multi-stage scams involving cryptocurrency. Such scams have increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency have continued to increase since. Overall, I am satisfied that it could have prevented the losses she suffered if it had taken the steps I’ve found it should’ve taken.

For completeness, I've also considered whether Monzo did everything it should've done once it became aware that a scam had taken place. But given that these payments were in relation to genuine purchases of cryptocurrency, any recovery of funds wouldn't have been possible.

Final decision

For the reasons I've set out above, I uphold this complaint.

If Mrs I accepts my decision, Monzo Bank Ltd should refund 50% of the money she lost to the scam. It should also add 8% simple interest per annum to that sum calculated to run from the date the payments were made until the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs I to accept or reject my decision before 23 August 2024.

James Kimmitt
Ombudsman