

## **The complaint**

Mr E complains that Monzo Bank Ltd ('Monzo') won't refund the money he lost when he fell victim to a scam.

## **What happened**

Mr E is represented in this case but for ease I'll refer to Mr E throughout this decision.

Mr E says that he saw an advert on social media promoting investments through a company I'll call V in this decision. He completed an enquiry form and received a call from a representative of V. Mr E says he looked at reviews and didn't find anything concerning. On 23 January 2023 Mr E decided to make his first deposit of £3,000 to an account in his own name with a cryptocurrency exchange and then on to a wallet address provided to him. The representative of V agreed to trade on Mr E's behalf. Mr E says he could see his profit growing in his account with V.

A few weeks later Mr E was unable to gain access to his account on V's website and tried without success to contact the representative of V he had communicated with. Mr E realised he was the victim of a scam and contacted Monzo to report what had happened.

Monzo said it couldn't provide Mr E with a refund of the funds he had lost because the payment from his Monzo wasn't the scam payment. Instead, the transaction from Mr E's Monzo account was to a cryptocurrency exchange.

Mr E wasn't happy with Monzo's response and brought a complaint to this service.

### *Our investigation so far*

The investigator who considered this complaint recommended that it be upheld in part based on the information she had (as Monzo hadn't provided this service with its file at the time). She said Monzo hadn't produced any evidence to demonstrate it provided Mr E with a warning tailored to the scam type, but Mr E didn't take enough care before making the payment. In the circumstances, Mr E should be reimbursed 50% of his loss plus interest.

Mr E accepted the investigator's findings. Monzo provided its file which included a recording of a call with Mr E before the scam payment was processed. The investigator listened to the call but said she didn't think Monzo went far enough. In particular, Monzo didn't ask questions about the context and purpose of the payment. For example, Monzo could have asked about the rate of return, the research Mr E completed and the paperwork he received. And, although Mr E lied to Monzo in the call, the investigator felt further questions would have uncovered the scam.

Monzo strongly disagreed with the investigator's view and raised the following points:

- Its transaction monitoring systems correctly flagged the transaction, and it had a conversation with Mr E in which he wasn't honest.
- During the conversation Mr E was given a verbal warning and an in app warning which made it clear that if he didn't provide correct information which resulted in a fraudulent payment being sent Monzo wouldn't refund the money lost.
- As Mr E was dishonest there was no evidence that further questioning would have uncovered the scam.

The case 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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Monzo hasn't signed up to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) but has agreed to follow it. The CRM Code doesn't apply in this case for a number of reasons, including the fact that it only applies to payments to another person and Mr E's funds went to an account in his own name.

In broad terms, the starting position in law is that Monzo is expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations (PSR's). And banks generally have a contractual duty to make payments in compliance with the customer's instructions.

Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have 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 made additional checks, or provided additional warnings, before processing a payment.
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers) and the different risks these can present to consumers, when deciding whether to intervene.

I've thought about the action Monzo took when Mr E made the payment request and whether it went far enough.

Mr E's payment went to a well-known cryptocurrency provider. By January 2023 many leading firms had recognised that payments for cryptocurrency carry an increased risk of being related to a fraud or scam, particularly given the widespread media coverage and their experience, and put additional checks in place to protect customers. It's clear that Monzo recognised this risk as it blocked Mr E's account when he made the £3,000 payment request.

Monzo went on to explain to Mr E that it flags some payments for review to ensure it is doing all it can to protect customers from fraud. Mr E was advised that he would receive contact

from a member of Monzo's scam prevention team. He was then sent a series of questions to provide Monzo with some additional information about the transaction. One of these questions was, "*Have you been contacted by anyone offering investments?*". Mr E responded to the other questions but didn't answer this one. Monzo explained to Mr E that it was very concerned he was falling victim to an investment scam and provided information about how he could protect himself. This included the following wording:

*"Scammers may ask you to open Crypto wallets and advise you to send the Crypto to a new wallet address. If you've been asked to set up a new Crypto wallet or use one you already had, and are told to send money to the wallet, exchange for Cryptocurrency and then move it on to another wallet address, this is also likely to be a scam and you will not be able to get your money back."*

*"Can you confirm that you have read the above."*

The message, which included a series of questions before a lengthy warning covering six different points was sent to Mr E at 13:02:48 and his response, which included a typed answer to a previous question, was sent at 13:03:52. So it's most unlikely that Mr E could have read the questions, read and digested the warning and typed a response in around a minute, and I consider Monzo ought reasonably to have picked this up.

Mr E then received a call from a Monzo fraud specialist. After asking about remote access the Monzo advisor explained that Mr E's account had been frozen due to concerns he had fallen victim to a scam. She went on to explain that Monzo was seeing a lot of fraud and scams and wanted to be more proactive because once funds are sent there is little it can do to get them back, as bank transfers are like giving cash.

I think the Monzo fraud specialist asked a number of relevant questions during the call. I have set out below some of them and Mr E's responses:

- How long he had the cryptocurrency account for – 12 months
- How he first got into cryptocurrency – a friend did it on the side and said Mr E should give it a try and talked him through it
- What made him choose the particular cryptocurrency exchange – his friend used it and he had read about others
- Whether anyone had contacted him about cryptocurrency or investment – no
- Whether he had been approached on social media or received any calls or clicked on any links – no
- Whether anyone was listening to the call or telling him what to say – no

The Monzo advisor provided verbal warnings in respect of the following:

- A "*worrying trend*" that had emerged where customers provide it with the wrong information because a scammer is telling them to or because they truly believe what a scammer is saying.
- That customers are losing a lot of money through sophisticated investment scams and that scammers advise victims not to tell Monzo they're involved in cryptocurrency or that they are being advised by anyone because Monzo don't like cryptocurrency or customers making money, but that's not true.
- Cryptocurrency investments are high risk, so customers need to be aware of the risks involved.

At the end of the call Mr E was asked if he had read the warning provided in the app which I have referred to above. He confirmed that he had. As I have said above, I don't think it was possible to digest the amount of information Mr E was provided with and to type a response

in around a minute. So I think Monzo ought to have known that any written warnings it provided were unlikely to have had a significant impact.

I consider that Monzo asked some important questions but that it ought to have gone further when Mr E said his friend told him about the investment as this is a common cover story that scam victims are told to give. Mr E also wasn't asked any questions about the investment itself, like where he was sending cryptocurrency to, the rate of return and the documentation he had received. Given that Mr E simply thought the representative of V was trading on his behalf I consider that he would have struggled to provide plausible responses to such questions. I also don't consider that Monzo went far enough to bring the scam to life or that the warnings it provided did enough to break the spell. For example, there was no mention of fake traders or fake trading platforms and although reasons were given for lying to Monzo (because Monzo don't like cryptocurrency or customers making money) the advisor didn't go as far as to say that if Mr E was told to lie, he was being scammed.

I appreciate that Mr E didn't provide honest responses to the questions Monzo asked about how he found out about the investment opportunity and whether anyone was helping him and that this is a more finely balanced case. But scam victims are often told not to answer questions correctly to allow the transactions to be processed which is why banks should ask probing questions aimed at getting to the heart of what is happening.

I've gone on to think about whether Mr E should bear any responsibility for his loss. In doing so, I've considered what the law says about contributory negligence, as well as what I consider to be fair and reasonable in all the circumstances of this complaint. Having done so, I'm satisfied Mr E should share responsibility for his loss.

I think there were some persuasive features about this scam including the fact that Mr E was required to provide documents to what appeared to be a secure server and received emails from V that looked legitimate (although there was no address for V). But I think there were some concerning factors that mean that Mr E should share responsibility for his loss. I have these reasons out below:

- Mr E found out about the investment opportunity through social media. This isn't how genuine investments are promoted.
- Mr E didn't properly read the scam information Monzo provided to him and wasn't honest about how he found out about the investment opportunity. He has told this service that he said a friend told him about it because by this time this is what he considered the representative of V to be, but I'm not persuaded he acted reasonably in doing so. And being told to lie to a bank ought to have been a serious red flag that something was amiss, particularly in light of the information Monzo gave to Mr E during the call it had before releasing the scam payment.
- Mr E says he looked at reviews of V and didn't find anything worrying. I can't find positive reviews at the time Mr E made the payment.
- Mr E didn't receive a contract or anything else to set out the terms of his agreement with V as I would expect if he made a legitimate investment.
- I can't see a rate of return mentioned but on 20 January 2023 Mr E questioned whether, if he could get funds together of £2,000 to £5,000, he could make £1,700 by 1 February 2023. This suggests Mr E was led to believe he would receive a rate of return that was too good to be true.

Overall, I don't consider it would be fair to require Monzo to refund Mr E's full loss.

### **My final decision**

For the reasons stated, I uphold this complaint and require Monzo Bank Ltd to:

- Refund £1,500; and
- Pay interest on the above amount at the rate of 8% simple per year from the date Monzo made its decision not to reimburse to the date of settlement.

If Monzo Bank Ltd considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr E how much it has taken off. It should also give Mr E a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 17 April 2024.

Jay Hadfield  
**Ombudsman**