

The complaint

Mr F complains that Monzo Bank Ltd ('Monzo') won't refund the money he lost after falling victim to a scam.

What happened

Mr F's complaint has been brought by a professional representative. As the account is in Mr F's name, I'll refer to him throughout the decision.

In July 2022, Mr F saw a pop-up advertisement online with a celebrity talking positively about bitcoin and cryptocurrency investment. Mr F filled in his details to find out more about the investment. Unfortunately, Mr F didn't realise but this wasn't a genuine advertisement or endorsement and had been posted by a scammer.

Ultimately, as a result of the scam, Mr F lost over £120,000 from accounts he held with other banks. Mr F never got any of these funds back and lost contact with the person he'd been dealing with in October 2022. Mr F says he tried to call and email but got no response from them.

At this time, Mr F was experiencing serious challenges in his personal life, which resulted in him leaving work to care for his wife. Mr F says he was particularly vulnerable and deeply impacted by the loss of these funds.

In February 2023, Mr F was contacted by a cryptocurrency exchange I'll refer to as B. B told Mr F they could return the funds he'd lost as a result of the earlier investment if he made further payments. B said they hadn't responded to Mr F's emails in October because a cryptocurrency company had gone into administration which had affected their normal operation. As a result, Mr F was persuaded to make payments from his Monzo account totalling over £37,000.

These are the payments Mr F made from his Monzo account. They went to cryptocurrency exchanges to purchase cryptocurrency, which was paid into wallets held in Mr F's name, before being transferred to the scammer.

Date	Pmt	Details of transaction	Amount
12.2.2023	1	Payment to S – cryptocurrency exchange	£150
13.2.2023		<i>Payment returned from S</i>	<i>£100 cr</i>
15.2.2023	2	Payment to S – cryptocurrency exchange	£9,000
15.2.2023		<i>Payment returned from S</i>	<i>£9,234.62 cr</i>
16.2.2023	3	Payment to C – cryptocurrency exchange	£8,000
19.2.2023	4	Payment to C – cryptocurrency exchange	£1,350
21.2.2023	5	Payment to C – cryptocurrency exchange	£1,400
28.2.2023	6	Payment to C – cryptocurrency exchange	£8,280
2.3.2023	7	Payment to C – cryptocurrency exchange	£8,300
3.3.2023	8	Payment to C – cryptocurrency exchange	£8,300
6.3.2023	9	Payment to C – cryptocurrency exchange	£2,000

Mr F became aware he was the victim of a scam when he didn't receive any funds back. Mr F says he felt a lot of shame and due to his difficult personal circumstances didn't report the scam until June 2023.

Despite raising a fraud claim with Monzo through his professional representation, Mr F didn't receive a response, so he raised a complaint with our service.

An investigator contacted Monzo and asked for their business file, but it wasn't provided. So, the investigator reached an answer based on the information Mr F had provided and upheld his complaint in full. In response, Monzo provided their business file.

The investigator revisited their opinion based on the information provided and issued a second view.

In the second view, the investigator didn't uphold Mr F's complaint. The investigator explained that Mr F's payments weren't covered by the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code), as the payments went to a cryptocurrency wallet held in Mr F's name. The investigator felt Monzo should've provided a tailored written warning about cryptocurrency investment scams when Mr F made the payments to C, as C is easily identifiable as a cryptocurrency exchange. However, the investigator didn't think this warning would've made a difference or prevented Mr F from making the payments. The investigator highlighted that Mr F contacted C after he made his first payment to check that the contact he'd received from them was genuine. A couple of weeks later C responded telling Mr F that they hadn't contacted him and that the contact information he had for them wasn't their genuine contact details. However, Mr F made four more payments after receiving that information.

Mr F's representative disagreed with the investigator's opinion and raised the following points:

- The payments Mr F made were unusual and out of character compared to his previous account use.
- They would've expected Monzo to intervene when he made the payment of £9,000 on 15 February 2023, and that such intervention would've uncovered the scam and prevented Mr F from making any further payments.

As the case couldn't be resolved, it was passed to me to review.

Having reviewed the case, I intended to reach a different answer than the investigator. So, I issued a provisional decision on 20 May 2024, sharing my reasoning with both parties and giving them the opportunity to respond before I issued a final decision.

What I said in my provisional decision

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

I'm very sorry to hear about the difficult personal circumstances that Mr F has been going through and the significant impact falling victim to these scams has had on his mental wellbeing. Unfortunately, scammers can be particularly cruel and manipulate people when they are most vulnerable.

While Monzo aren't a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code), they have agreed to adhere to its provisions.

However, Mr F's payments aren't covered by the CRM Code because the payments were made to a cryptocurrency account held in Mr F's name. The CRM Code doesn't apply to payments made to a consumer's own account.

In broad terms, the starting position in law is that Monzo are 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 I have taken that into account when looking into what is fair and reasonable in this case. But Monzo also has to be on the lookout for, and help to prevent, payments that could involve fraud or might be the result of a scam.

Should Monzo have intervened?

All of these payments were made to payees that are easily recognisable as cryptocurrency exchanges. And, at the time these payments were made in February 2023, Monzo should've been well aware of the prevalence of cryptocurrency investment scams.

When Mr F made the payment for £9,000 on 15 February 2023 (payment 2), I would've expected Monzo to have given a tailored written warning about cryptocurrency investment scams. However, in this case, Mr F fell victim to a recovery scam, so I'm not persuaded that a tailored investment warning is likely to have been impactful in Mr F's circumstances. On that basis, I think it's unlikely that a tailored warning about investment scams, if provided, would've prevented Mr F's loss on that payment.

However, when Mr F made the first payment to C on 16 February 2023 for £8,000 (payment three), I think Monzo should've gone further and contacted Mr F to ask him questions about this payment.

While Mr F had previously made several large payments, including £9,000 to a money transfer service only a few days prior, this was his second large payment to a cryptocurrency exchange and took the total paid to £17,000 within the space of 24 hours. And, while Mr F had previously used his account to make multiple payments on the same day, this was nearly double the amount of money that he'd previously sent in that short a time frame.

So, when Mr F made the first payment to C, I would've expected Monzo to contact him and ask open probing questions about his payment. I think basic questions about why Mr F was transferring the money, what he knew about cryptocurrency and what he knew about the exchange he was sending the money to would've uncovered the scam.

Mr F wasn't given a cover story and I think it's most likely that open questions would've identified that Mr F was transferring money to try and recover money he'd lost as part of an earlier investment scam. I would've expected Monzo to have been aware of recovery scams, and if they had told Mr F about these scams and how they work it's more likely than not that Mr F wouldn't have proceeded with making the payments. Mr F couldn't afford to lose the money that he sent as part of this scam, so I don't think he would've proceeded if any indication was given by Monzo that he might be the victim of another scam. On that basis I'm satisfied that Monzo could've prevented Mr F's loss from payment three.

However, I also need to think about whether Mr F could've mitigated his loss.

Could Mr F have mitigated his loss?

When Mr F was first contacted as part of the recovery scam, the scammers referred to his previous cryptocurrency investment and seemed to have full knowledge of what had happened. They also provided Mr F with what seemed to be a reasonable explanation of why his contact on the previous investment had stopped. Based on Mr F's limited knowledge and understanding of cryptocurrency, I'm not persuaded that there was anything in the initial contact that should've concerned Mr F – relating to payments 1 and 2. I'm also mindful that Mr F was seriously impacted by the loss of funds on the original investment scams, so would've been encouraged by the belief that he could recover some of that money he believed was lost.

However, when Mr F was given new payment instructions to pay C (for payment 3), he had concerns which resulted in him contacting C directly through their genuine contact details. I appreciate that he didn't get a response from C until 24 February 2023, however based on his concerns I think he should've waited for this response before making the payments.

When C responded they clearly told Mr F that he hadn't been contacted by someone at their company as the contact information he had wasn't their genuine information. However, Mr F proceeded with making payments regardless.

Based on Mr F having concerns about the payments he was being asked to make to C, I think Mr F could've mitigated his loss by waiting for a response from C before making the payments. On that basis, I think it's fair for Mr F to share responsibility for his loss with Monzo.

I have considered whether Mr F should take a larger share of responsibility because he continued making payments after C said he wasn't dealing with them. However, I know Mr F was under immense pressure at the time due to his personal situation and his desperation to get his money back. I think it's most likely that this clouded his judgement when he got the response from C and impacted how he acted. However, I don't think this would've meant that Mr F would've proceeded with the payments if Monzo had explained that he was most likely the victim of a scam.

Because I think Mr F could've mitigated his loss, he should share responsibility for his loss with Monzo.

My provisional decision was that I intended to uphold this complaint and ask Monzo to refund 50% of payments three to nine (inclusive). I intended to ask Monzo to pay 8% simple interest on the refund, calculated from the date Mr F made the payments, until the date of settlement.

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.

Both Mr F and Monzo responded to my provisional decision saying they accepted my recommendation.

As neither Mr F nor Monzo provided any new evidence or information that they wanted considered and both accepted my recommendation, I see no reason to reach a different answer than in my provisional decision.

In summary

I'm satisfied that Monzo should've intervened on payment two and provided a written cryptocurrency investment scam warning. However, I don't think this warning would've been impactful as Mr F fell victim to a recovery scam – not an investment scam.

When Mr F made payment three, I'm satisfied that Monzo should've gone a step further and intervened, asking Mr F open probing questions about the payment he was making. I think it's more likely than not that this intervention would've uncovered the scam and prevented Mr F's loss from payment three onwards.

But, I also considered whether Mr F should share responsibility for his loss with Monzo. Based on the concerns that Mr F had and the information available to him at the time he made payment three, I think Mr F should've waited for the response from C and not proceeded with the payments. So, I'm satisfied that Mr F should share responsibility with Monzo and therefore only require Monzo to refund 50% of payments three to nine inclusive. Monzo are also required to pay interest on that refund at 8% simple interest per year, calculated from the date Mr F made the payments until the date of settlement.

Putting things right

To put things right, Monzo Bank Ltd should:

- Refund 50% of payments three to nine (inclusive)
- Pay 8% simple interest per year on that refund, calculated from the date of the payments until the date of settlement*

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

My final decision

My final decision is that I uphold this complaint against Monzo Bank Ltd and require them to compensate Mr F as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 27 June 2024.

Lisa Lowe
Ombudsman