

The complaint

Mr M is unhappy that Monzo Bank Ltd hasn't refunded him after he fell victim to an investment scam.

What happened

The background to this complaint is well-known to both parties and so I won't go into great detail about what happened here.

Mr M found an investment opportunity advertised on social media. He registered his interest and was contacted by someone claiming to work for a firm which provided investment advice. But Mr M had actually been contacted by scammers.

Not knowing this, Mr M engaged with the scammers and was persuaded to start investing. As part of the process, he set up an account with Monzo and a cryptocurrency wallet (with a different firm). This was all done at the instruction of the scammers. When Mr M opened the Monzo account he told the bank he'd be trading in crypto.

Between 30 May and 6 June 2022 Mr M attempted five payments to different payees, all for £2,500. Four of those were attempts to send money to different people using a money transfer service. But all bounced back and were re-credited to Mr M's account.

Mr M's fifth payment was a bank transfer (faster payment) which appears to have been returned to him on 17 June 2022.

On 20 June 2022 Mr M started to make payments to the crypto wallet he'd set up, beginning with a £2,500 transfer. Over the next few weeks Mr M went on to send a total of £43,200 across eight payments.

Once the money was in Mr M's crypto wallet it was sent on at the scammer's instruction and lost.

Mr M realised something was wrong when contact with who he believed to be his account manager dwindled. He contacted Monzo to report the scam.

Monzo considered Mr M's claim and said it wouldn't refund him because he'd made payments to a crypto wallet in his own name. It said that Mr M's loss had been incurred from that crypto wallet and not from Monzo.

Mr M was unhappy with Monzo's response and so brought his complaint to our service. One of our investigators considered the complaint and recommended it be upheld. He acknowledged that the payments had gone to an account in Mr M's name, which was under his control, but didn't find that absolved Monzo of any responsibility for the loss. He said it ought to have recognised some of the payments as carrying a fraud risk and in turn ought to have questioned Mr M about them.

Our investigator said the account activity had become sufficiently suspicious as to warrant an intervention when Mr M made a payment of £9,900 on 15 July 2022. He noted the value

of the payment, the number of previous payments over a short period, and that it was the second transfer on the same day as reasons for identifying that particular payment as representing cause for concern.

He was persuaded Monzo ought to have stopped the payment and asked questions about what was happening so it could try to ensure Mr M wasn't falling victim to a scam. He was satisfied such an intervention would have revealed the scam and prevented the loss from that point on. He said Monzo didn't act fairly and reasonably in allowing the payments to continue without question and, because Mr M's loss ought to have been prevented, it should bear responsibility for it.

Our investigator did note that Mr M's actions hadn't been reasonable throughout. He didn't feel Mr M had done enough to check into the legitimacy of the investment proposal or those putting it forward. And he felt there were some warning signs that all was not as it seemed, but Mr M hadn't acted on them.

Mr M accepted the outcome. But Monzo disagreed and so the complaint has been passed to me for a final decision.

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.

Like our investigator, I'm upholding Mr M's complaint. But I find Monzo's intervention ought to have come earlier, and so Mr M will – on acceptance of this decision – receive more of a refund than that recommended by our investigator.

I've already explained this revised position to Monzo and my reasons for it. Mr M has also been informed and has already expressed his preparedness to accept. And so, with that in mind, I'll broadly summarise my reasons for upholding the complaint.

Key considerations

The starting point at law is that Mr M is responsible for any transactions made from his account which are properly authorised. This is set out in the Payment Service Regulations (2017) as well as Mr M's account terms and conditions. There's no dispute here that Mr M authorised the payments, albeit as part of a scam.

But that isn't the end of the story. Taking into account relevant 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 ought fairly and reasonably:

- To have been monitoring Mr M's account and payments to counter risks including anti-money laundering, 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 Mr M was at risk of financial harm through fraud;
- In some circumstances, have taken additional steps, or made additional checks, or provided additional warnings, before processing what appeared to be valid and authorised payment instructions – as in practice all banks do;
- Have been aware of common fraud scenarios and tactics used by scammers in an ever evolving landscape, including multi-stage fraud.

Should it be found that Monzo ought fairly and reasonably have acted to prevent a loss, which could have been avoided by such action, but didn't then causation is established for that loss. And as such it would be fair and reasonable for Monzo to compensate for that loss. This position is unchanged by the use of accounts held in Mr M's own name, as is the case here, where a crypto wallet was used. In such circumstances a loss is still reasonably foreseeable and preventable.

Should Monzo have intervened when Mr M was making payments?

I'm satisfied Monzo ought to have been concerned by the activity on Mr M's account before he made the first payment to his crypto wallet. Or, at least, that payment ought to have crystallised concerns and led to Monzo stopping the payment to question Mr M.

Prior to that payment Mr M had tried and failed to send £2,500 to at least three different payees. There was no explanation for what he was doing or what was going wrong. And the sum he was trying to send was not insignificant. So when the exact same payment value was then sent to a further new payee (with another having been attempted in the meantime), I'm satisfied Monzo ought to have realised something wasn't right.

In making that finding I have considered both that the account was new, and that Mr M had stated on his account application that he intended to trade in crypto. But the bouncing back of multiple payments in this way can't fairly and reasonably be regarded as normal activity, even on a new account. It represents a clear risk in that the customer is identifiably failing to execute a payment and then altering the details to try and get it to go to someone else. Those failed payments weren't going to a cryptocurrency platform, and so the account opening purpose stated has little bearing on the nature of those payments. Furthermore, stating cryptocurrency as a reason for opening an account doesn't mean a customer might not fall victim to a cryptocurrency scam.

I can accept that it might be more difficult to detect such a scam in the circumstances, or that Monzo would be less concerned by crypto activity. But it must consider the whole picture, in terms of account monitoring. And I'm satisfied that the crypto payments were preceded by the failed money transfer service payments presented enough of a risk to say that Monzo ought fairly and reasonably have acted and intervened.

What actions should Monzo fairly and reasonably have taken?

I'm satisfied Monzo ought to have either questioned Mr M after the repeated failed payments or that it ought to have stopped the first payment to his crypto wallet. A proportionate response to the evident risk would have been to speak to Mr M directly, such as through the in app chat, to find out what was going on.

The questioning that ought to have followed would then need to be dynamic and open in order to establish the circumstances behind the payments. Mr M ought to have been asked, for example, why he was making the payments, what was happening to the money once it credited his crypto wallet, how he'd come across the investment opportunity. This list is neither prescriptive nor is it exhaustive. But it gives an idea of the sensible questions to ask when the risk of financial harm through fraud is identified.

Would intervention have made a difference?

I've seen no evidence to suggest Mr M wouldn't have been honest with Monzo about what he was doing, or how he'd found out about the investment. He believed he was making legitimate investments and was involved with legitimate parties. So there was no reason for

him not to share those details. As soon as he became suspicious, he shared the full details with Monzo.

This leads me to believe it's more likely than not Mr M would have answered Monzo's questions honestly and revealed the key details about the scam if asked. Those details, such as finding the opportunity online, it being a crypto investment directed by an unknown broker, and other information that would more likely than not have been revealed, would have clearly demonstrated to Monzo that Mr M was caught up in a scam.

It follows that Monzo ought fairly and reasonably to have then delivered very strong warnings against proceeding and to have highlighted the key and common features of the scam. There's nothing to suggest Mr M wouldn't have heeded those warnings. And so his loss would have been avoided.

Should Mr M bear some responsibility for his loss?

I've considered Mr M's own actions throughout the scam as well as Monzo's. My findings here don't differ from those of our investigator. Those findings have been accepted by Mr M already. Monzo hasn't objected to what's been said on these considerations, which is understandable given they establish Mr M's responsibility for some of the loss.

That being the case, there isn't an outstanding dispute as to whether Mr M ought to bear some responsibility, so I won't go on to write detailed findings.

In brief, I find there were signs that the investment was not all it was promised to be and there were concerning features that Mr M ought fairly and reasonably to have questioned. And he ought fairly and reasonably to have done more to establish the legitimacy of the parties he was dealing with.

As I can't say Mr M acted reasonably here, it's fair for him to share partial responsibility for his loss.

Putting things right

I'm satisfied Mr M and Monzo ought to share equal responsibility for the loss. Mr M did receive a small proportion of funds (£5,102) back from his crypto wallet. This should be taken into account when calculating the settlement figure and can be deducted from the total loss amount (applied before the 50% reduction, not after).

On Mr M's acceptance, Monzo should:

- Pay redress to Mr M to reflect 50% of his loss to the scam;
- Pay interest on that sum at 8% simple per year, calculated from the date of each payment to the date of settlement.

My final decision

I uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 August 2024.

Ben Murray

Ombudsman