

The complaint

Mr R is unhappy that Monzo Bank Ltd won't refund the money he lost to what he believes was an investment scam. He is also unhappy Monzo didn't reach out to the beneficiary bank when he asked it to.

What happened

The background to this complaint is well known to both parties and was set out in the investigator's view of 18 April 2024. But briefly, between 5 October 2023 and 8 October 2023, Mr R transferred three payments to a work colleague (I will refer to as B) for what he was led to believe was an investment opportunity.

Monzo said this was a civil dispute – as Mr R worked with B and had known him for over a year.

Our investigator concluded that this was a scam. However, he felt Mr R didn't have a reasonable basis for believing this was a genuine investment opportunity. He also felt Monzo's offer of £25 - as an apology for not calling Mr R back when it ought to have done - was fair and reasonable.

Mr R didn't agree. He felt Monzo had failed to reach out to the beneficiary bank when he asked it to and this shows a lack of commitment towards requests made by the users of its services.

I issued my provisional decision on 30 May 2024, explaining why I was reaching a different conclusion to the investigator. Monzo accepted my provisional decision and Mr R confirmed he had no further comments to make.

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.

As neither party has provided any further evidence or arguments for consideration, I see no reason to depart from the conclusions set out in my provisional decision. For completeness, I have set this out below.

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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Monzo believes this was a failed investment opportunity via someone Mr R knew rather than a scam. The Lending Standards Board's Contingent Reimbursement Model (CRM) Code doesn't cover

private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier;

So it wouldn't cover a genuine investment that has subsequently failed.

An APP scam is where:

The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.

At first glance it appears that this was a genuine investment opportunity that just went wrong. I appreciate it is unusual in what we typically see in an investment scam for a victim to know the scammer in person. And it wasn't just someone Mr R knew – it was a direct line report whom he had worked with for almost 18 months. So at face value I can understand why Monzo might think this was a civil dispute.

But here – I do think the balance of the evidence tips towards this being a scam rather than a civil dispute. I say this because:

- A small sum invested with a visual of significant returns a few days later - is a common tactic used in investment scams. This was followed by requests for fees or tax in order to release funds. This clearly isn't true and these further requests for money are common reasons for payments in investment scams.
- If a genuine investment had been made – I think it's reasonable that Mr R's colleague would have been able to access the funds – even if there had been a loss in value. But here Mr R never got anything back at all.
- The chain of chat messages stops a couple of days later and Mr R says that B resigned on 13 October – blocking all colleagues. Mr R's call log indicated B was not accepting his calls on 9 October 2023.
- The third-party beneficiary bank information indicates the first payment wasn't used in the way in which it was intended. It's not clear how the second two payments were ultimately used. But given B told Mr R it was towards fees and taxes to release the money – Mr R's money can't have genuinely been used for these purposes.

Overall, I've not been provided with any evidence to show Mr R's money was invested or used in the way B described. So based on the evidence I have, on balance, I have decided this was a scam.

Reimbursement under the CRM Code

When considering what is fair and reasonable in this case, I have taken into account the Contingent Reimbursement Model (CRM) Code – which (although not a signatory) Monzo has committed to follow.

The CRM Code also outlines the expectations on firms. In particular it says where firms identify APP scam risks in a payment journey, they should take reasonable steps to provide their customers with effective warnings, which should include appropriate actions for those customers to take to protect themselves from APP scams.

But I don't think this was a scenario where Monzo reasonably ought to have identified a scam risk here. I think it reasonable for Monzo to take into account a range of factors when deciding whether to intervene or provide a warning. I am mindful that banks can't reasonably be involved in every transaction. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

The transactions are spread out and the individual payments very low in value - although I appreciate, they were not insignificant to Mr R. I don't think the pattern of payments and the values were consistent with a heightened risk of financial harm. So, in the overall circumstances, I don't think Monzo needed to intervene before it processed these payments.

Under the CRM Code the starting principle is that a firm should reimburse a customer who is the victim of an APP scam, like Mr R. The circumstances where a firm may choose not to reimburse are limited and it is for the firm to establish those exceptions apply. R2(1) of the Code outlines those exceptions.

The exception relevant to this case is:

- In all the circumstances at the time of the payment, in particular the characteristics of the Customer and the complexity and sophistication of the APP scam, the Customer made the payment without a reasonable basis for believing that: (i) the payee was the person the Customer was expecting to pay; (ii) the payment was for genuine goods or services; and/or (iii) the person or business with whom they transacted was legitimate.

There are further exceptions within the CRM Code, but they do not apply in this case.

Did Mr R have a reasonable basis for belief?

I need to consider not just whether Mr R believed he was sending money for an investment, but whether it was reasonable for him to do so.

I appreciate the returns that Mr R 'appeared to have achieved' seemed too good to be true – but of course Mr R had already sent the initial £650 – so this didn't form the basis for belief for his initial investment. I'm not persuaded Mr R would reasonably have known being asked for a fee and tax was unrealistic – which was the purported purpose of the two following payments.

This was an unusual situation – as I said above it's not typical (but not impossible) for a victim to know their scammer in this way. But having established this was a scam – I think this was a very believable situation for Mr R. B directly reported to him. He'd been working at the same organisation for over a year, and they shared (via the chat messages) a dialogue before and beyond this scam. Within the messages it's clear Mr R 'trusted' B as he says so on more than one occasion. I don't think this is unreasonable given the relationship and history B had with Mr R. One might scrutinise the deal more closely if it was a stranger but there was simply no need for Mr R to do that here. Overall, I think all of this means Mr R did have a reasonable basis to believe B and the investment opportunity was genuine.

Did Monzo do enough to try and recover Mr R's funds?

I appreciate Mr R feels strongly about this but in light of my conclusions above, it is not necessary in this case to consider whether the bank also exercised enough care and urgency in trying to recover the stolen funds from the payee bank before they were irretrievably removed by the scammer.

It is also the case here that as the investigator explained, even if Monzo had contacted the beneficiary immediately when Mr R first reported the matter on 9 October 2023 – Mr R's funds had already been removed. This is not unusual as scammers usually remove money within hours.

I understand Mr R was frustrated with Monzo's lack of reaching out to the beneficiary bank. But Monzo can't just reach out to a beneficiary bank simply because a consumer asks it to. It must decide for itself whether it is appropriate to do so. And it wouldn't be appropriate for it to do so in the event of a civil matter as it can't get involved in civil disputes between consumers.

And whilst I have gone on to conclude this was a scam here – it's not so obviously the case. I made further enquiries myself before reaching this conclusion. There are unusual features here. Sending money to a work colleague - who you have known for some considerable time - are hallmarks of a civil dispute rather than a scam. So, I don't think Monzo did anything wrong in not reaching out to the beneficiary bank when Mr R asked it to.

I appreciate Mr R was concerned about his funds, but Monzo does need time to investigate matters. Monzo did give an initial response three days after Mr R reported the matter. It then went on to investigate things further and did provide a final response letter one month after Mr R first made a claim. I don't think this is an unreasonable time frame.

However, I do think Monzo could have managed Mr R's expectations about the timescales involved much better and it didn't always respond to his messages. There were some issues such as a promised call back and I think it could have communicated more effectively with Mr R around its position on recalling the payments. Overall, I think Monzo could have done better here. I appreciate Monzo offered Mr R £25 but I think a sum of £100 more fairly reflects the impact all of this had on Mr R.

Putting things right

In order to put things right for Mr R Monzo Bank Ltd must:

Refund Mr R in full – so £2,550.

Because Mr R has been deprived of the use of this money, I consider it fair that Monzo add 8% simple interest to the above from the date his claim was declined under the CRM Code to the date of settlement.

Pay an additional £75 compensation on top of the £25 already paid (so £100 in total).

If Monzo is legally required to deduct tax from the interest it should send Mr R a tax deduction certificate so he can claim it back from HMRC if appropriate.

My final decision

My final decision is that I uphold this complaint and require Monzo Bank Ltd to put things right for Mr R as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 July 2024.

Kathryn Milne
Ombudsman