

The complaint

Miss K complains that Monzo Bank Ltd (“Monzo”) hasn’t protected her from losing money to a scam.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, Miss K has explained that in June 2023 she made six payments totalling £3,489 from her Monzo account as a result of a job scam.

Miss K got in touch with Monzo when she realised she’d been scammed. Ultimately, Monzo didn’t reimburse her lost funds, and Miss K referred her complaint about Monzo to us. As our Investigator couldn’t resolve the matter informally, the case has been passed to me for a decision.

I sent Miss K and Monzo my provisional decision earlier this month. Now both parties have had fair opportunity to respond, I’m ready to explain my 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.

Having done so – and having received no further submissions from Miss K and Monzo in response to my provisional decision – I’ve reached the same conclusions as in my provisional decision, and for the same reasons. I’ve explained why again below.

First, let me say, I don’t doubt Miss K has been the victim of a scam here. She has my heartfelt sympathy. Ultimately, however, Miss K has suffered her loss because of fraudsters, and this doesn’t automatically entitle her to a refund from Monzo. It would only be fair for me to tell Monzo to reimburse Miss K her loss (or part of it) if I thought Monzo reasonably ought to have prevented the payments (or some of them) in the first place, or Monzo unreasonably hindered recovery of the funds after the payments had been made; and if I was satisfied, overall, this was a fair and reasonable outcome.

Prevention

I’m satisfied Miss K authorised the relevant payments. Monzo would generally be expected to process payments a customer authorises it to make. And under The Payment Services Regulations and the terms and conditions of the account, Miss K is presumed liable for the loss in the first instance, in circumstances where she authorised the payments. However, this isn’t the end of the story. Good industry practice was that Monzo ought to have been on the look out for transactions that were unusual or uncharacteristic to the extent that they might indicate a fraud risk. On spotting such a payment instruction, I would expect Monzo to intervene in a manner proportionate to the risk identified.

Losses to cryptocurrency investment fraud has recently been such that I would reasonably expect Monzo to recognise from 1 January 2023 that cryptocurrency related transactions carry an elevated risk of being related to a fraud or scam. And I've assumed for the purposes of this decision that Monzo ought to have realised Miss K's payments were related to cryptocurrency. But I don't think Miss K's first five transactions were large enough for me to say Monzo ought reasonably to have intervened in them. These first five payments totalled £1,424 and were spread over six days. There are many payments made by customers each day and it's not realistic or reasonable to expect Monzo to stop and check every payment instruction. There's a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments (allowing customers ready access to their funds).

However, Miss K's sixth (and final) payment for £2,065 brought the total amount sent on 21 June 2023 to over £3,000 (given that payments four and five, totalling £1,275, were sent the same day). Bearing this in mind, and what I've said above about payments to cryptocurrency carrying an elevated risk of being related to a fraud or scam, and in this case irrespective of Miss K's previous account activity, I think Monzo, therefore, should have, before processing Miss K's sixth payment, provided her with a tailored written warning relevant to cryptocurrency investment scams, tackling some of the key features of the scam.

But if Monzo failed to intervene in the payment instruction when it should have, this isn't enough by itself to uphold this complaint – I'd also need to be satisfied that appropriate intervention from Monzo would most likely have prevented the payment from being made. And in this particular case, I'm persuaded that such appropriate intervention would have been a tailored written warning, as I've said above. Given the amounts involved here, and Miss K's previous account activity, I don't think I could fairly say Monzo ought reasonably to have gone further than a tailored written warning. And I'm not persuaded that such intervention most likely would have prevented the payment.

I say this because I understand Miss K fell victim to a similar job scam in January 2023, so she would already have been aware that such scams existed. And she's said she didn't have any concerns about this one in June 2023. So I can't see how a tailored written warning from Monzo in respect of her sixth (and final) payment about cryptocurrency investment scams is likely to have changed her mind about proceeding in this instance. So, even though I think Monzo ought to have provided Miss K with a tailored written warning about cryptocurrency investment scams before it executed this payment instruction, I don't think this likely would have made a difference, so I'm not persuaded I can fairly say any omission in this regard on Monzo's part should be regarded as the proximate cause of Miss K's loss in this instance.

Recovery

I understand these payments were made using Miss K's Monzo debit card. So, after the payments were made, the only potential avenue for Monzo to recover them would have been via the chargeback scheme.

However, Miss K made the payments from her Monzo debit card to a crypto exchange (and not directly to the scammers). This means the merchant here, for chargeback purposes, would be the crypto exchange (and not the scammers). But the crypto exchange legitimately provided the services intended (which was the transfer of Miss K's funds into cryptocurrency). The subsequent transfer of the cryptocurrency onto the scammers would not give rise to a valid chargeback claim through Monzo. So I don't think these payments were recoverable through Monzo once they had been made.

I'm sorry Miss K was scammed and lost money. However, I can't fairly tell Monzo to refund her where I don't think it unreasonably failed to prevent the payments or recover them.

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 19 July 2024.

Neil Bridge
Ombudsman