

The complaint

Mr N complains that Monzo Bank Ltd (Monzo) won't refund money he lost in an investment scam.

What happened

What Mr N says:

Mr N says he saw a video on YouTube about an investment opportunity involving crypto currency. He filled out a contact form and was contacted by someone who explained the investment was with a company (which I will call 'Company A').

Mr N looked at company A's website and it seemed professional. The contact said he could earn 18% per week. Mr N says he had no experience of investing in crypto currency before.

Mr N made some small investments to start with (using another bank account). He could then see that his 'investments' were doing well and was incentivised to put more money in to get better returns.

Mr N sent money from his Monzo account to his crypto wallet (in his name) and from there to Company A's 'investment fund'. He also sent £32,819 from another bank account (which is the subject of another complaint referred to our service). The payments from the Monzo account were:

Date	Payment	Amount
3 April 2023	Faster payment to crypto wallet – blocked by Monzo/account frozen	£12,400 (stopped)
5 April 2023	Faster payment to crypto wallet	£5,000
5 April 2023	Faster payment to crypto wallet	£5,000
6 April 2023	Faster payment to crypto wallet	£2,400
Total loss		£12,400

The contact then stopped responding to emails and Mr N realised he had been scammed. The investment website was fake.

Mr N contacted Monzo on 8 August 2023 to report the scam. Before that, he complained to Monzo about his account being blocked – in April 2023.

What Monzo said:

Monzo responded to Mr N's complaint about his account being blocked. The firm explained there had been an increase in scams and needed to protect customers. Mr N's account had been blocked because of the payment attempted on 3 April 2023.

While the account had been unblocked, Monzo said this had taken longer than it should have and for that delay, paid compensation of £60.

Monzo didn't provide a final response to Mr N's complaint about the scam but sent their evidence to us to review.

Our investigation so far:

Our investigator didn't uphold Mr N's complaint. He said:

- Monzo stopped the first payment of £12,400 and asked Mr N questions on the chat service.
- Monzo also called Mr N about the payment.
- On the call, our investigator was satisfied that Monzo provided sufficient warnings to Mr N. And this, together with Mr N's responses to the bank's questions, were sufficient to allow Monzo to unfreeze the account and let the payments go ahead.
- On the call, Mr N said:
 - o He wasn't being advised by an investor – but that wasn't what Mr N had said in his testimony to our service.
 - o He stated what crypto currency he was buying.
 - o He could afford to lose the money, as digital wallets aren't regulated by the FCA.
 - o He was an experienced investor – and provided evidence of prior trades in crypto. He said to Monzo he had been investing for two years and had lost money before.
 - o He pushed Monzo to have his account unfrozen.
 - o Mr N said 'it's 'not a big deal, it's my decision' (to invest the money).
 - o Mr N said he understood Monzo couldn't get the money back if it proved to be a scam.
- Monzo had tried to recover the money, but without success.

Mr N didn't agree and asked that an ombudsman look at his complaint. He said:

- Monzo should've asked more open and probing questions.
- The fact that Mr N said it was not such a massive deal – indicated that he was unaware of the risks and that should've been a red flag to Monzo.
- Monzo should've seen the funds were going to an unregulated crypto wallet.

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.

I'm sorry to hear that Mr N has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr N didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. 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 make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Monzo acted fairly and reasonably in its dealings with Mr N when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. Monzo hasn't signed up to the Code, but they follow its principles.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr N normally used his account – then we would expect Monzo to have intervened and spoken to him.

I can see that Mr N opened his personal account only a few days before the scam payments – and there was an initial credit to the account of £13,000 just before the first attempted payment for £12,400.

So – it's clear the payment was unusual compared to the normal running of the account.

Therefore, Monzo needed to intervene – and did so, as they blocked the first payment. They messaged Mr N and there was an exchange on the chat service, and then Monzo called Mr N. This is important evidence when considering this complaint.

Chat exchange:

I can see that Mr N said *'I am investing in crypto...I have invested in crypto before...please unfreeze my account.'*

Phone call:

I listened to the call. My overriding sense of the call was that Mr N was very confident in his answers. He told Monzo he had invested in crypto before and knew what he was doing – and he accepted the risks of what he was doing. He also accepted that he could lose money if the payment turned out to be a scam. I detail some of the call:

Monzo: *'...if you send money to your own digital wallet, Monzo will not be held liable for this payment and if this turns out to be a scam, we will not be able to refund your losses.'*

Mr N: *'yes.'*

Monzo: *'...it is common for scammers to contact people...and get them to open digital wallets and send their funds on from there....crypto currency platforms are unregulated by the FCA, so recovering this money is almost impossible...'*

Monzo: *'Are you being advised by an investor? Scammers (can) pose as investors...to initiate a scam.'*

Mr N: *'no'*

Monzo: *'what digital currency do you intend to purchase?'*

Mr N: *'Ethereum and possibly one other.'*

Monzo: *'can you afford to lose this money?'*

Mr N: *'yes'*

Monzo asked Mr N for evidence of his trading history – and he sent this to the bank.

While Mr N was waiting for his account to be unfrozen, he said (on chat messaging):

'I have lost thousands on crypto and stocks in the past and it's really not a big deal, it's my decision'.

In asking for the payment to be released, Mr N confirmed he understood the bank wouldn't be able to refund him if the payments turned out to be fraudulent.

Monzo then unblocked the account and Mr N made the three payments in question.

Mr N has argued that Monzo should've asked more open and probing questions and seen that he wasn't aware of the risks he was taking. But here, on balance and in the circumstances of this case, I don't consider that Monzo needed to do any more than they did.

And so - I don't hold Monzo liable to refund any money.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Monzo took the necessary steps in contacting the bank that received the funds – in an effort to recover the money. Monzo told us they contacted the

recipient bank, and I've seen evidence they did so – on 9 August 2023. And no funds remained to be repaid. In all honesty, this wasn't a surprise – as normally in such scams, funds are removed from the recipient bank immediately.

I'm sorry Mr N has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but I can't reasonably hold Monzo responsible for his losses.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 18 October 2024.

Martin Lord
Ombudsman