

The complaint

Mr K is unhappy Monzo Bank Ltd will not refund £13,728.78 he lost as the result of an authorised push payment (APP) scam.

Mr K brought his complaint to this service through a representative. For ease of reading, I will refer solely to Mr K in this decision.

What happened

As both parties are aware of the details of the scam I will not repeat them in full here. In summary, Mr K fell victim to a job/task scam. He was contacted unexpectedly via WhatsApp and offered the opportunity to complete online tasks (reviewing hotels) in order to earn commissions. He was told that to access the tasks he first needed to buy cryptocurrency and then transfer this to another platform. He made three faster payments to a wallet in his name at a cryptocurrency platform as set out below:

payment	date	value
1	13/09/2023	£3,671.63
2	13/09/2023	£3,057.15
3	14/09/2023	£7,000

He realised he had been scammed as when his task account had a negative balance he kept being told he need to deposit more funds. He reported this to Monzo on 14 September 2023.

Mr K says Monzo did not do enough to protect his money. Monzo said there were no grounds to refund the payments to Mr K.

Our investigator upheld Mr K's complaint in part saying Monzo should refund 50% of payment 3 as a direct intervention at that stage could have stopped the scam.

Mr K accepted this assessment. Monzo disagreed and asked for an ombudsman's review.

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.

To note, as the payments were made to another account in Mr K's name debit card the principles of the Contingent Reimbursement Model (CRM) code do not apply in this case.

There's no dispute that Mr K made and authorised the payments. Mr K knew who he was paying, and the reason why. At the stage he was making these payments, he believed she was transferring funds to buy cryptocurrency which would then allow him to access tasks he would earn commission for completing. I don't dispute Mr K was scammed and he wasn't making payments for the reason he thought he was, but I remain satisfied the

transactions were authorised under the Payment Services Regulations 2017.

And (as Monzo has referenced) the Supreme Court reiterated in *Philipp v Barclays Bank UK PLC*, banks generally have a contractual duty to make payments in compliance with the customer's instructions – as Monzo did in this case.

In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks when making payments. Among other things, it said, in summary, that the starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, the bank must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.

The express terms of the current account contract may modify or alter that position. For example, in *Philipp v Barclays*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a duty to do so.

Monzo's terms and conditions in place at the time said:

We may refuse to make a payment, or reject an incoming one if: we suspect you're a victim of fraud.

and

We're responsible to you for any foreseeable loss and damage which we cause. When we say 'foreseeable', this means we could or should have expected those losses. This includes if we breach the terms of this contract or fail to use reasonable care or skill providing services to you.

So in accordance with Monzo's own terms and conditions it could therefore refuse payments, or make enquiries (ie. use reasonable care and skill), where it suspected fraud. And it says it will refund money that is lost if it should've done more to prevent the loss. Whilst the current account terms did not oblige Monzo to make fraud checks, I do not consider any of these things (including the implied basic legal duty to make payments promptly) precluded Monzo from making fraud checks before making a payment.

And, whilst Monzo was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good practice at the time, it should fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including Monzo, do.

This means, taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that by September 2023 Monzo should fairly and reasonably have:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms are generally more familiar with than the average customer;

- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

In this framework I find Monzo can be held liable in part for Mr K's loss from payment 3. I'll explain why.

Mr K's Monzo account was opened on the instruction of the scammer so there was no account history to provide context for the subsequent activity. The investigator found that at the time of payment 2 Monzo ought to have provided a tailored automated warning which asked a series of questions in order to try and establish the actual scam risk. I find that this should have happened at the time of payment 1 given the value and the fact the recipient account was identifiably linked to cryptocurrency. And by September 2023 I would expect Monzo to be aware of the prevalence of scams involving cryptocurrency. However, as I agree with the finding that this would not have stopped Mr K from making the payment I will not comment further on when the automated warnings needed to start.

I think that Mr K would have proceeded with payments 1 and 2 even if a tailored warning had been deployed each time. I say this as there is evidence from his complaint against another firm, relating to this same scam, that he followed the scammer's instructions to enable other payments to be processed. I have seen nothing to persuade me he would have done anything differently here.

By payment 3 though I think Monzo ought to have made direct contact with Mr K before following his payment instructions. The payment was higher-value and took the total he had sent to a crypto platform to almost £14,000 in less than 16 hours, on each occasion making a payment into his Monzo account before sending the funds on. This means I need to consider what effect a proportionate intervention would most likely have had.

If Monzo had asked a series of question to establish the basic context of the payment I think it would have uncovered many of the hallmarks of job/task scams – such as an unsolicited contact via WhatsApp, no employment contract, the need to pay to earn, that the money would be moved on from the recipient account - and so warned Mr K that his money was at risk. The messages between Mr K and the scammer show that he had not been provided with a cover story or coached on possible interactions with the bank, beyond selecting the payment purpose.

In addition, they show Mr K already had doubts and had asked for reassurance this was not a scam. So, had Monzo asked the right questions and gone on to explain to Mr K that he was likely being scammed, I think it's most likely that Mr K would have not made payment 3. He was vulnerable at the time and would most likely have trusted the bank as the expert in fraud prevention, particularly given it would have been saying something he already suspected.

It follows I find Monzo can be held liable for the loss from payment 3.

Should Mr K bear some responsibility for the overall loss?

I've considered carefully whether Mr K should hold some responsibility for his loss by way of contributory negligence. Accepting that he is not the fraud expert - that is the role of Monzo, I do think he missed some clear signs that the opportunity might not be legitimate. Having to pay money upfront to do a supposedly paid job is unusual and should have raised Mr K's suspicions, particularly as it seems Mr K had no contractual terms of employment to review and accept. I have not seen that Mr K carried out an adequate level of checks before going ahead. Indeed the messages between him and the scammer show that by 11 September 2023 he was concerned it might be a scam yet went ahead anyway. It follows I think the parties are equally liable.

I am therefore instructing Monzo to refund 50% of Mr K's loss from payment 3.

Did Monzo do what it should to try to recover Mr K's money?

Mr K moved the money he sent to the recipient account onwards to the scammer at a second crypto exchange platform so he knew no money remained in the recipient account. This mean there was no reasonable prospect Monzo could recover the payments. So I do not find any failings on its part in this regard.

Putting things right

Monzo must:

- Refund 50% of £7,000 (so £3,500).

There is no interest award as Mr K has evidenced that he funded the payment by borrowing from a family member so he was not personally deprived of the use of these funds. And as the family member is not party to this complaint I cannot award them compensatory interest.

I have found no grounds to award the additional £300 compensation Mr K asked for.

My final decision

I am upholding Mr K's complaint in part. Monzo Bank Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 7 May 2025.

Rebecca Connelley
Ombudsman