

The complaint

Mr A is complaining that Monzo Bank Ltd won't reimburse him for money he lost to a scam.

The complaint is brought on his behalf by a professional representative.

What happened

The background to this complaint is well known to both parties so I won't repeat it in detail here.

In summary, in September 2023 Mr A fell victim to an investment scam. He says he found the investment advertised by an influencer on social media, and it promised he could double his money within a week.

Mr A made the following payments to the scam by debit card:

| Date | Amount |
|-------------------|--------|
| 18 September 2023 | £1,000 |
| 20 September 2023 | £5,000 |
| 3 October 2023 | £5,000 |
| 4 October 2023 | £5,000 |
| 6 October 2023 | £5,000 |

It looked like Mr A had made a profit on his investment, but when he tried to withdraw it he wasn't able to. He says this is when he realised he'd been scammed.

Around 13 October 2023 he contacted Monzo to explain what had happened, and asked them to charge back the disputed payments to the merchant. He provided some more information to Monzo about what had happened, but when he didn't receive a substantive response he made a complaint to Monzo through his representative. When Monzo didn't reply to the complaint, his representative brought the complaint to us.

Our investigator looked into Mr A's complaint. He said, in summary:

- he thought Monzo should have intervened at the time of the second payment to the scam on 20 September 2023, by asking Mr A the reason for the payment and giving him a relevant warning about investment scams. He thought further payments to the scam would have been prevented if Monzo had done this;
- he thought Mr A should share liability for the loss with Monzo as there were some concerning aspects of the scam which he didn't question at the time; and
- he didn't think Monzo ought to have done anything else to try to recover the payment Mr A made.

Monzo didn't agree. It said, in summary:

- it wanted to understand some more about the payment journey and how Mr A had made the payments to the scam, because Mr A's representative had mentioned the involvement of a cryptocurrency platform;
- Monzo did not have a right to intervene as Mr A made legitimate payments in return for goods and services; and
- under Section 7 of the Payment Services Regulations (2017) Monzo must provide a factual reason for refusing to make a payment, and these can only be for factual matters (a genuine reason). It had no factual reason to suspect these payments or look to delay them in proceeding, as they were legitimate payments.

Because the parties couldn't agree, Mr A's complaint was passed to me for review and a decision.

I contacted Monzo informally about Mr A's complaint, to try to resolve things without the need for a final decision. I explained to Monzo that from the information we'd received about the payments and how they were made, it looked like the payments were made directly to the scam company through its own website. So, I explained I didn't think its argument about the payments being sent to an account in Mr A's name with a legitimate cryptocurrency platform were relevant here.

I also made the following comments to address Monzo's points about the payment journey:

- I told Monzo I'd researched the website Mr A said he made the payments through and the payments appeared to have been made to an unregulated investment company. The available media information would suggest this company was not legitimate - which is backed up by the conversations Mr A had been able to evidence with his "broker" which suggest he was unable to withdraw any funds despite his investment apparently showing a profit. The website is no longer available but I was able to access it briefly through archive records, and it appeared that the company claimed to be authorised in Mauritius, Kazakhstan and Cyprus at around the time Mr A invested in it - but the available information about this company suggests there's some doubt about this. I thought there was enough evidence to conclude that it was more likely than not that a scam had taken place here – rather than a failed investment.
- I understood why Monzo had questioned why the merchant name Mr A made the payments to didn't appear to match with the name of the company website he'd made the payments through, but looking at the information Monzo had provided about the payments I could see that the merchant code used was consistent with Forex, CFD and spread betting merchants. So, I found that the merchant details did tie in with the link to the company Mr A invested in - as did the payment amounts as detailed in the messages, and the dates involved. From what I'd seen (and I thought it was unlikely any other evidence was going to become available now) I was satisfied that the payments made from Monzo were the payments Mr A made through the company's website and were related to the scam he complained about.
- I agreed with Monzo that the mention of payments to a cryptocurrency platform by Mr A's representative had confused the matter here – but I suspected this was likely an error, because from the other information we had about the payments from (in particular) Monzo to the scam company, I didn't think a separate cryptocurrency platform was involved.

Monzo chose not to comment any further on these points, and asked for a final decision without adding any further reasoning.

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, I'm upholding it in part - and for broadly the same reasons as our investigator.

I've already explained to Monzo why I'm satisfied that Mr A has been the victim of a scam and has suffered a loss as a result, and Monzo didn't reply to me on this point, so I'm proceeding on the basis that a scam has taken place.

Broadly speaking, Mr A is responsible for any payments made from his account which are properly authorised, as they were here. And Monzo has a duty to process valid payment instructions quickly and with minimal friction. These positions are set out in the Payment Service Regulations (2017) and confirmed in Mr A's account terms and conditions.

However, taking into account the relevant law, regulations, industry guidance, and best practice, firms like Monzo ought fairly and reasonably to have systems in place to monitor transactions and accounts for signs that its customer might be at risk of financial harm through fraud. Where such risks are detected, there ought to be action from the bank to intervene through the giving of warnings and scam education. Sometimes, that will mean stopping a payment so that the customer can be questioned directly about it.

Where there is a failure by a firm to properly intervene and protect a customer, it might then be fair and reasonable to say that firm becomes responsible for the customer's loss. And so, in Mr A's case, it's for me to determine if Monzo made an error(s) over the course of the scam and, if so, whether it's fair and reasonable for it to be held responsible for Mr A's losses as a result.

Monzo has explained that Mr A paid a legitimate cryptocurrency platform and it had no right, or factual reason, to intervene in legitimate payments. As I've already explained to Monzo, I'm not persuaded that Mr A did make a payment to a legitimate cryptocurrency platform here before transferring the cryptocurrency to the scam – it looks to me that the payments were made directly to the scam company through its own website. So, I am not sure its arguments are relevant – and it's not replied to say why it thinks they are.

However, for the avoidance of doubt - even if the money used to fund the scam had remained under Mr A's control with a legitimate cryptocurrency platform before being transferred to the scam, I would still think Monzo could fairly be held responsible for his loss in such circumstances.

Monzo should have been aware of the increase in multi-stage fraud when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control before being sent to a fraudster. The Financial Ombudsman Service has seen a significant increase in this type of fraud over the past few years and it's a trend Monzo ought fairly and reasonably to have been aware of at the time of the scam too. I don't think there is any point of law or principle that says that a complaint should only be considered against either the firm that is the origin of the funds or the point of loss.

I've reviewed the transaction history of Mr A's Monzo account for around ten months prior to the scam taking place and I can see that the account was mainly used for relatively low value, day-to-day, spending, with the occasional more substantial payment, not exceeding £600.

I agree with the investigator that the first payment of £1,000 was not of a sufficient value to cause Monzo concerns that Mr A may be at a heightened risk of financial harm.

However, like the investigator, I do consider that the payment of £5,000 on 20 September 2023 was sufficiently unusual and out of character for the pattern of spending on Mr A's account, that Monzo should have been concerned enough about the circumstances of the payment to have intervened before releasing it. And like the investigator, I think that an intervention from Monzo asking about the circumstances of the payment, leading to a tailored warning about investment scams, would have uncovered the scam and prevented any further payments being made to it.

I say this because I'm persuaded that Mr A would have been honest with Monzo about the circumstances of the payment - he believed it was a legitimate investment and doesn't appear to have been coached or influenced by the scammer not to answer any questions honestly. And if he'd given Monzo some details about the circumstances of the scam – such as the use of social media, the predicted returns, and the use of remote access – I think Monzo, as the experts, would have identified the hallmarks of an investment scam and would have been able to provide Mr A with a relevant and tailored warning relating to the investment scam he was experiencing. I've not seen anything to make me think Mr A wouldn't have heeded such a warning (and I also note that Monzo hasn't provided any further reasoning on this particular point in response to the investigator's view.)

Overall, I'm satisfied that if Monzo had intervened before releasing the payment on 20 September 2023, this payment, and the subsequent payments to the scam would have been prevented – and that Monzo can be fairly and reasonably held partly responsible for Mr A's loss.

Mr A has already accepted his own responsibility for some of the loss, following our investigator's findings. This means there isn't an outstanding dispute about whether he should bear any responsibility and I don't think there's any need for me to make further findings here. I'll only say that I agree with the investigator that there were some suspect elements to the scam that ought fairly and reasonably to have led Mr A to question what he was being told – such as the lack of paperwork, social media conversations as a means of contact, and the use of remote access.

For completeness, I agree with the investigator that recovering the payments Mr A made wouldn't have been possible here. Mr A did attempt to raise chargebacks for the disputed payments, and I can't see that Monzo attempted them. However, the card scheme involved here does not allow for chargeback rights in relation to investment disputes – including scams. So even if Monzo had attempted chargebacks, it's difficult to see how there would have been any reasonable prospect of them succeeding.

My final decision

My final decision is that I uphold this complaint, in part. To put things right, Monzo Bank Ltd should:

- refund 50% of the scam payments made from and including the payment of £5,000 on 20 September 2023; and
- pay 8% simple interest per annum on that amount from the date of each payment to the date of settlement (less any tax lawfully deductible.)

If Monzo Bank Ltd considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 5 March 2025.

Helen Sutcliffe
Ombudsman