

## The complaint

Mrs R complains that Monzo Bank Ltd ('Monzo') hasn't reimbursed the funds she lost when she fell victim to a scam.

## What happened

Mrs R's complaint has been brought to our service by a professional representative. As the account is in Mrs R's name, I'll refer to Mrs R throughout this decision.

Mrs R says that she was researching online jobs and found an advert about a role with a well-known company. Shortly after making an application, Mrs R received a message from someone who claimed to be a recruitment consultant. This person said a different agent would get in touch with Mrs R about the job role.

Mrs R then received messages from someone I'll refer to as D in my decision. Mrs R didn't know at the time, but D was a scammer. D provided Mrs R with details about the role. She explained that it involved working to help merchants improve their reputation and sales by completing sets of tasks. Mrs R was told she needed to pay for orders in advance and once the order was completed the money advanced by her would be returned and she would receive commission and rewards.

To facilitate deposits and withdrawals Mrs R was required to open an account with a cryptocurrency provider I'll refer to in my decision as E. Mrs R also had access to a platform where she could see the commission she had earned.

Initially Mrs R was asked to make a payment of £100 but this was reduced to £50. Following this, Mrs R says she received a payment of £320 to her husband's account.

I have set out in the table below the payments Mrs R made on the instructions of the scammer. All transactions were made to E. I should point out that Mrs R's representative has included an additional £15 transaction on 10 September 2023. This transaction doesn't appear on Mrs R's statement, so I have not considered it.

Transaction	Date	Amount
1	06/09/23	£50
2	09/06/23	£40
3	10/09/23	£200
4	10/09/23	£15
5	11/09/23	£50
6	13/09/23	£830
7	13/09/23	£2,000
<b>Total</b>		<b>£3,185</b>

Mrs R realised she was the victim of a scam when she was asked to pay a large sum of money before she could withdraw her earnings and commission. She contacted Monzo on 13 September 2023. Mrs R then brought a complaint through her representative on 26 October 2023.

Monzo didn't provide a substantive response to Mrs R because it says it had backlogs but gave referral rights to this service. It has explained that it isn't reimbursing Mrs R. I have summarised Monzo's main reasons below:

- Mrs R bought legitimate cryptocurrency which she received into her own digital wallet, which she had control of. There was no reason to refuse the payments.
- Mrs R didn't do enough to protect her funds.
- Whilst English isn't Mrs R's first language this doesn't necessarily mean she was more susceptible to falling victim to this scam.
- Monzo has sophisticated transaction monitoring controls in place that take into account industry experience and expert knowledge as well as historic fraudulent and legitimate payment data.
- Cryptocurrency exchanges have robust security protocols in place and provide their own scam warnings.
- Monzo raised the case of Philipp v Barclays.

#### *Our investigation so far*

The investigator who considered this complaint didn't recommend that it be upheld. He said that the transactions Mrs R made weren't so unusual and out of character that Monzo ought to have intervened when they were made. He also noted that the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) doesn't apply and there was nothing Monzo could have done to recover Mrs R's funds.

Mrs R didn't agree with the investigator's findings. In summary, she said:

- The £2,000 transaction ought to have raised significant concerns as it was the highest value payment from Mrs R's account, and was to a relatively new payee linked to cryptocurrency. And, just prior to the transfer, Mrs R had received a credit of £2,000 which was immediately disbursed leaving a credit of £0.75. The payments to the cryptocurrency exchange were also increasing in size over time – following a typical fraud trend Monzo should have been aware of.
- The Financial Conduct Authority (FCA) Consumer Duty came into force prior to Mrs R making the transactions. The Consumer Duty says firms should not cause customers foreseeable harm. Mrs R provided an example of foreseeable harm that is set out in associated guidance (which I will set out later in my decision).

Mrs R said Monzo ought to have had systems in place to identify, as far as possible, the actual scam taking place and provided appropriate warnings. In this case, Monzo should have known the payments were going to a cryptocurrency provider and factored that information into a warning.

Mrs R has asked for a final decision, so her complaint has been passed to me to 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.

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.

In broad terms, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And a customer will then be responsible for those transactions that they have authorised.

It's not in dispute here that Mrs R authorised the payments. So, while I recognise that she didn't intend the money to go to a scammer, the starting position in law is that Monzo was obliged to follow Mrs R's instructions and process the payments.

However, 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 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 made 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.

In this case, I need to decide whether Monzo acted fairly and reasonably in its dealings with Mrs R when she authorised payments from her account or whether it could and should have done more before processing them.

I'm sorry to disappoint Mrs R, but I don't consider Monzo ought reasonably to have recognised she was at risk of financial harm and taken any further action. The transactions she was making were relatively low in value and were made over the course of a week. In March 2023 Mrs R had made a faster payment to a third party of £900, so the transactions were also broadly in line with Mrs R's previous account activity. And whilst Mrs R's balance went down to £0.75 after the £2,000 transaction, this also wasn't unusual for her. On balance, I don't consider Monzo needed to provide a tailored written warning when any of the transactions were made.

I appreciate that all transactions were to a digital currency exchange and wallet provider based abroad. But many transactions to such exchanges are legitimate. I'm not persuaded it would be reasonable to expect Monzo to stop every transaction that may be linked to cryptocurrency. There's a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. Whilst banks have obligations to act in their customers' best interests, they can't reasonably be involved in every transaction.

Since 31 July 2023, under the FCA's Consumer Duty, regulated firms like Monzo must avoid causing foreseeable harm to retail customers (PRIN 2A.2.8R). Avoiding foreseeable harm includes ensuring all aspects of the design, terms, marketing, sale and support for its products avoid causing foreseeable harm. An example of foreseeable harm given by the

FCA in its final non-handbook guidance on the application of the duty was, “*consumers becoming victims to scams relating to their financial products for example, due to a firm’s inadequate systems to detect/prevent scams or inadequate processes to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers*”.

I’m not persuaded that the Consumer Duty places a requirement on firms to prevent all scams. Instead, firms are required to avoid causing their customers foreseeable harm. So I need to decide whether Monzo ought reasonably to have foreseen that Mrs R was falling victim to a scam. I have explained above why I do not think this was the case. Monzo had systems in place to look out for unusual transactions that might indicate Mrs R was at risk of foreseeable harm, but those systems didn’t identify the transactions Mrs R made as suspicious.

Overall, whilst I’m sympathetic to the position Mrs R finds herself in, I can’t reasonably ask Monzo to reimburse her loss.

### **My final decision**

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs R to accept or reject my decision before 7 August 2024.

Jay Hadfield  
**Ombudsman**