

The complaint

Ms E complains that Monzo Bank Ltd didn't do enough to protect her from the financial harm caused by an investment scam, or to help her recover the money once she'd reported the scam to it.

What happened

Ms E came across an investment opportunity while she was on social media. The opportunity was endorsed by a well-known celebrity. She completed an online contact form and was contacted via WhatsApp by someone I'll refer to as "the scammer" who claimed to work for a company, which I'll refer to as "P".

The scammer told Ms E she could make good returns by investing in cryptocurrency. He provided a copy of his passport as proof of ID and produced documents showing P was registered with the Financial Conduct Authority (FCA). Ms E thought P's website looked very professional, and that the scammer seemed knowledgeable about investing. Unfortunately, P was a clone of a genuine company.

The scammer told Ms E to download AnyDesk remote access software which he then used to set up an account on the investment platform for her. He asked her to first purchase cryptocurrency through a cryptocurrency exchange company which I'll refer to as "B", and then load it onto an online wallet. On 21 December 2022, Ms E made an initial payment of £250 using a credit card, and between 14 January 2023 and 19 January 2023 she transferred £22,900 from Monzo to an EMI which I'll refer to as "R", before making five card payments to B from R totalling £30,500. During the scam period, she took out a loan with Bank L.

Ms E realised she'd been scammed when she was repeatedly told she'd have to pay fees to withdraw her funds and was ultimately unable to withdraw anything. She complained to Monzo, but it refused to refund any of the money she'd lost, arguing that the fraud didn't take place on the Monzo platform.

Ms E wasn't satisfied and so she complained to this service with the assistance of a representative who said Monzo should have intervened on 14 January 2023 when she paid £5,000 to her R. They explained that Ms E had previously only used the Monzo account for small purchases, and the largest payment in the 6 months prior to the scam was £250 to an account in her own name. They said the sudden change in behaviour was in line with scam patterns and should have raised concerns.

The representative said Monzo should have contacted Ms E by phone and asked open probing questions. Had it done so, she would have explained that she was transferring money to an account in her own name to invest in cryptocurrency, she found the opportunity on social media, P was endorsed by a celebrity, she was being advised by a broker, she had used AnyDesk, and she was guided to set up a cryptocurrency wallet.

They argued that even though Ms E thought P was registered with the FCA, Monzo would have told her to check the FCA register, and she would have seen the clone warnings which

were published in February 2021 and contacted the genuine company, which would have uncovered the scam.

Monzo explained there were no interventions or warnings as this was an existing payee in her own name to which she'd been sending funds since before 2022. It also cited the Supreme court's ruling in *Philipp V Barclays*, where the court said 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, and having the right to decline to carry out an instruction was not the same as being under a duty to do so.

Having initially said that Monzo didn't need to intervene, our investigator accepted that even though there was an established history of payments between the accounts, Monzo ought to have asked Ms E about the second payment she made on 19 January 2023, because the account activity had increased and the payment was made within seconds of the previous payment to R, which ought to have raised concerns.

However, she didn't think an intervention from Monzo would have made any difference. She explained the messages between Ms E and the scammer when R intervened on 14 January 2024 show she was updating him throughout the intervention. She also followed the scammer's instructions to take out a £15,000 loan.

Further, Ms E told Bank L she needed to loan to buy a car and transferred the funds from Bank L to Monzo, and then on to R to fund the investment. Bank L gave Ms E a scam warning and asked if anyone had contacted her to make the payments, which she denied, stating she wanted to use her Monzo account because it would be quicker. Bank L warned Ms E about scams to which she replied, "what scams are most popular?". She also asked which scams were happening in the UK. Significantly, she didn't disclose the true purpose for the payments which prevented Bank L from detecting the scam.

Our investigator thought that if Monzo had questioned Ms E about the final payment, she'd have given a cover story to avoid it being blocked. And as the funds were going to her own account with R, there would be no indication that she was sending her money to a cryptocurrency investment, so the only warning appropriate would be a safe account warning.

Finally, our investigator was satisfied that there would have been no chance of a successful recovery because Ms E had transferred the funds from her R to B, so no funds remained.

Ms E has asked for her complaint to be reviewed by an Ombudsman. Her representative has argued that Monzo would have been aware of the increase in multi-stage fraud, particularly in cryptocurrency scams, which almost always utilise an EMI as an intermediary between a high street bank account and a cryptocurrency wallet. Ms E accepts that she did tell Bank L she was sending the money for a car purchase, but this reasoning wouldn't have made sense to Monzo, as there would have been no reason to transfer money from Bank L to Monzo and then on to R to buy a car.

Further, the representative has explained Ms E had genuinely intended to buy a car when she took out the loan, but she was socially engineered by the scammer to divert the money to the investment. And there is no evidence of coaching or cover stories from the communications she had with the scammer.

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've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Ms E has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

I'm satisfied Ms E 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of her bank account, Ms E is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Ms E didn't intend her money to go to scammers, she did authorise the disputed payments. Monzo is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

I've thought about whether Monzo could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Monzo ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Ms E when she tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Monzo to intervene with a view to protecting Ms E from financial harm due to fraud.

The payments didn't flag as suspicious on Monzo's systems. I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Ms E normally ran her account, and I think they were. All the payments were to an account in Ms E's own name, and it was an established payee and so, while I accept the first three payments were higher than the usual spending on the account, I don't think Monzo needed to intervene. However, on 19 January 2023, Ms E made two £5,000 payments to R in quick succession, and I think this should to have triggered a warning, particularly on the second payment. The cumulative value of the payments on 19 January 2023 was £10,000 and the total for 18 January 2023 and 19 January 2023 combined was £17,900, so the escalation of spending, the pattern of the payments and the fact she'd received £15,000 into the account from Bank L on 18 January 2023, ought reasonably to have alerted Monzo that the account could be at risk of fraud.

But I agree with our investigator that this probably wouldn't have uncovered the scam. Ms E should have been asked why she was making the payments, including why she'd received funds into the account from Bank L and moved them straight out to an account in her own name.

However, I don't think she'd have answered the questions truthfully, so Monzo wouldn't have detected the scam. The messages between Ms E and the scammer including the discussions about the £250 deposit (Ms E asked for her initial deposit to be returned to her credit card but the scammer convinced her not to proceed with the withdrawal by explaining that her profit was rising) and when R blocked the second payment, show she was being guided by the scammer and that she was open to following this guidance. Even though Ms E says otherwise, on balance, I'm satisfied she did lie to Bank L about the purpose of the loan and that she did so on the scammer's advice. So, whether she told Monzo she was buying a

car, or some other cover story, I think it's likely she'd have been coached by the scammer on what to say and it wouldn't have had enough information to detect the scam.

In the circumstances, Monzo would likely have still given Ms E a warning, but it wouldn't have been tailored to cryptocurrency scams, and based on the fact she ignored the warning from Bank L, I don't think it would have made any difference. It was only her difficulty in withdrawing money that finally led her to discover that she was being scammed and the weight of evidence that I've outlined persuades me that she was so taken in by the scammer that she wouldn't have listened to a generic scam warning from Monzo.

Therefore, while I accept Monzo missed an opportunity to intervene, I don't think this represented a missed opportunity to have prevented the scam, so I can't fairly ask it to do anything to resolve this complaint.

Recovery

I don't think there was a realistic prospect of a successful recovery because Ms E paid an account in her own name and moved the funds onwards from there.

Compensation

The main cause for the upset was the scammer who persuaded Ms E to part with her funds. I haven't found any errors or delays to Monzo's investigation, so I don't think she is entitled to any compensation.

I'm sorry to hear Ms E has lost money and the effect this has had on her. But for the reasons I've explained, I don't think Monzo is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

For the reasons I've outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or reject my decision before 18 December 2024.

Carolyn Bonnell
Ombudsman