

The complaint

Mr P, through a representative, complains that Monzo Bank Ltd won't refund £5,965 that he lost as the result of a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them in full here. In summary, Mr P made four debit card payments to wallets in his own name at two different cryptocurrency exchange platforms as set out below:

payment	date	value
1	02/10/2023	£1,000
2	23/10/2023	£1,000
3	23/10/2023	£2,300
4	12/11/2023	£1,665

He believed he was moving the money to then buy cryptocurrency that he would then trade. He had been contacted via WhatsApp with the opportunity. It seems the scammers had cloned a legitimate, FCA registered investment platform, company A. Mr P was able to track his trades online and see how his investment was growing. He was able to make one withdrawal for £160 (to a different account he had made an initial £25 investment from) but was then told he needed to pay a £15,000 fee before he could access the returns on his investment. He then realised he had been scammed and contacted Monzo in December 2023.

Monzo says Mr P authorised the payments and as they were sent to crypto wallets in his own name, Monzo was not the point of loss.

Our investigator upheld Mr P's complaint in part. He said Monzo should have intervened at the time of payment 3 with a better automated warning and this would most likely have broken the spell of the scam. However, he found Mr P should also take some responsibility by way of contributory negligence and he concluded Monzo should refund 50% of payments 3 and 4.

Mr P accepted this assessment. Monzo made some initial comments but did not provide a formal response by the deadline, despite multiple extensions.

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 broad terms, the starting position at law is that Monzo is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (2017) and the terms and conditions of the customer's account.

However, it doesn't stop there. Taking into account relevant law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in October 2023 that Monzo should:

- 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; and
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multistage 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.

To note, as the payments were to accounts in Mr P's name the principles of the Contingent Reimbursement Model (CRM) code do not apply in this case.

Should Monzo have recognised that Mr P was at risk of financial harm from fraud?

Monzo argues it was not the point of loss, but I disagree that this in itself is an adequate explanation as to why it need not consider the risk level of the payments. I'll go on to explain why.

It isn't in dispute that Mr P has fallen victim to a cruel scam here, nor that he authorised the payments he made by card to his cryptocurrency wallets (from where that cryptocurrency was subsequently transferred to the scammer).

The payments here were made to cryptocurrency providers. I'm aware that such cryptocurrency exchanges generally stipulate that the card used to purchase cryptocurrency at its exchange must be held in the name of the account holder, as must the account used to receive cash payments from the exchange. Monzo would likely have been aware of this fact too. So, it could have reasonably assumed that the payments would be credited to a cryptocurrency wallet held in Mr P's name.

By October 2023, when these transactions took place, firms like Monzo had been aware of the risk of multi-stage scams involving cryptocurrency for some time. Scams involving cryptocurrency have increased over time. They reached record levels in 2022. During that time, cryptocurrency was typically allowed to be purchased through many high street banks with few restrictions. By the end of 2022, however, many of the high street banks had taken steps to either limit their customer's ability to purchase cryptocurrency using their bank accounts or increase friction in relation to cryptocurrency related payments, owing to the elevated risk associated with such transactions. And by October 2023, when these payments took place, further restrictions were in place. This left a smaller number of banks

and other payment service providers, that allowed customers to use their accounts to purchase cryptocurrency with few restrictions.

So, taking into account all of the above I am satisfied that by the end of 2022, prior to the payments Mr P made in October 2023, Monzo ought fairly and reasonably to have recognised that its customers could be at an increased risk of fraud when using its services to purchase cryptocurrency, notwithstanding that the payment would often be made to a cryptocurrency wallet in the consumer's own name.

In those circumstances, as a matter of what I consider to have been fair and reasonable, good practice and to comply with regulatory requirements (including the Consumer Duty), Monzo should have had appropriate systems for making checks and delivering warnings before it processed such payments. Taking all of the above into account, and in light of the increase in multi-stage fraud, particularly involving cryptocurrency, I don't think that the payments in this case were going to an account held in Mr P's own name should have led Monzo to believe there wasn't a risk of fraud.

The first two payments were not high value (although I appreciate it is a lot of money to Mr P), not to a new payee and not made in quick succession. And when Mr P opened the account in March 2023 he had said the purpose was crypto activity. So I don't think Monzo should reasonably have suspected that they might be part of a scam.

But, by payment 3 I think it had reason to intervene. Not only was payment 3 going to a new payer – a different cryptocurrency provider, it was preceded by a payment of £1,000 and was the second transaction to a cryptocurrency exchange in one day. And money had credited Mr P's account to fund these payments just before he made them.

On balance, taking into account that Monzo needs to take an appropriate line between protecting against fraud and not unduly hindering legitimate transactions, I think Monzo ought to have been sufficiently concerned about this payment that it would be fair and reasonable to expect it to have provided warnings to Mr P at this point. Given what Monzo knew about the destination of the payment, I think that the circumstances should have led Monzo to consider that Mr P was at heightened risk of financial harm from fraud.

In line with good industry practice and regulatory requirements (in particular the Consumer Duty), I am satisfied that it is fair and reasonable to conclude that Monzo should have provided a tailored warning to its customer before this payment went ahead. To be clear, I do not suggest that Monzo should provide a warning for every payment made to cryptocurrency. Instead, as I've explained, I think it was a combination of the characteristics of this payment which ought to have prompted a warning.

What kind of warning should Monzo have provided?

Monzo says Mr P would have seen an in-app warning when he made the first payment to a new payee, so a confirmation of payee. But it has not evidenced it offered any type of scam warning at any stage.

I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Monzo's primary duty to make payments promptly. The FCA's Consumer Duty, which was in force at the time these payments were made, requires firms to act to deliver good outcomes for consumers including acting to avoid foreseeable harm. In practice this includes maintaining adequate systems to detect and prevent scams and to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers.

In light of the above, I think that by October 2023, when these payments took place, Monzo should have had systems in place to identify, as far as possible, the actual scam that might be taking place and to provide tailored, effective warnings relevant to that scam for both APP and card payments. In this case, Monzo knew that the payments were being made to a cryptocurrency provider and its systems ought to have factored that information into the warning it gave. Monzo should also have been mindful that cryptocurrency scams have become increasingly varied over the past few years. Scammers have increasingly turned to cryptocurrency as their preferred way of receiving victim's money across a range of different scam types, including romance, impersonation, job and investment scams.

Taking that into account, I am satisfied that, by October 2023, Monzo ought to have attempted to narrow down the potential risk. I'm satisfied that when Mr P made the third payment, Monzo should have provided a scam warning tailored to the likely cryptocurrency related scam Mr P was at risk from.

If Monzo had provided a warning of the type described, would that have prevented the losses Mr P suffered from payment 3 onwards?

I acknowledge that any such warning relies on the customer answering the questions honestly and openly. But I'm satisfied that if Monzo had asked Mr P what payment 3 was for and the basic surrounding context through a series of interactive questions designed to establish the actual scam risk, it is likely he would have fully explained he received an unsolicited contact via WhatsApp, been allocated a 'financial adviser' and told to send money to crypto wallets for investment purposes. I cannot see he had any formal documentation to support his investment choice, or credible information on the likely rate of return. On balance, I find it most likely an effective warning would have highlighted the risk factors of such a payment.

So I think a meaningful investment scam warning could have broken the spell of the scam. I have seen no evidence from the correspondence between the scammer and Mr P that he had been coached in anyway to provide a cover story to his bank.

I've considered carefully whether Mr P should hold some responsibility for his loss by way of contributory negligence.

I think he should. Mr P was introduced to the opportunity by an unsolicited contact with the display name 'The Little Secretary' via a messaging app. This is not how legitimate investment opportunities come about.

Whilst he researched company A, I cannot see any evidence he checked 'The Little Secretary' was legitimately linked to company A. Mr P says the financial adviser he was allocated was professional and technically knowledgeable which gave him confidence. But from reviewing their correspondence I disagree. The adviser's communication was littered with emojis and the language was overly informal. I think this ought to have concerned Mr P. He seems to have been willing to invest significant sums without an appropriate level of due diligence or caution.

I am therefore instructing Monzo to refund only 50% of Mr P's losses from payment 3 onwards.

Could Monzo have done anything to recover Mr P's money?

The payments were made by card to a cryptocurrency provider. Mr P sent that cryptocurrency to the scammer. So, Monzo would not have been able to recover the funds. In addition, I don't consider that chargeback claims would have had any prospect of success given there's no dispute that both cryptocurrency exchanges provided the services they sold to Mr P as the funds appeared in his digital wallet, which he subsequently sent to the scammer.

Putting things right

Monzo should refund Mr P his losses from payment 3. I'm satisfied that both parties ought to share equal liability and therefore Monzo is entitled to make a deduction of 50% for contributory negligence.

It must add 8% simple interest from the date of payments 3 and 4 to the date of settlement (if Monzo deducts tax from this interest, it should provide Mr P with the appropriate tax deduction certificate).

I have found no grounds to award Mr P the £300 additional compensation he requested.

My final decision

I am upholding Mr P'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 P to accept or reject my decision before 20 December 2024.

Rebecca Connelley
Ombudsman