

The complaint

Mr R complains that Monzo Bank Ltd didn't do enough to protect him from the financial harm caused by an investment scam company, or to help him recover the money once he'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr R saw a post about an investment opportunity on a friend's social media account, so he contacted them to make enquiries. The friend recommended a broker who worked for a company I'll refer to as "S" who would help him to invest in cryptocurrency.

Mr R contacted the broker who showed him how to create a profile on "S" and told him that he was guaranteed a return of £20,000 from a £2,000 investment. He told him to first purchase cryptocurrency through a cryptocurrency exchange company I'll refer to as "M" and then load the cryptocurrency onto an online wallet.

On 28 January 2023 he made a payment of £2,000 to M using a debit card connected to his Monzo account. He was reassured that he could check his account on the trading platform, but when he was told to pay a fee to make a withdrawal, he realised he'd been the victim of a scam.

Mr R contacted Monzo on 29 January 2023 to ask it to stop the payment, because it was still pending. He also ordered a replacement bank card. But he didn't receive a satisfactory response and so he complained to it on 18 February 2023.

Mr R said Monzo should have intervened due to the value of the payment, particularly as it knew he had ADHD. He said he wanted Monzo to refund the money he'd lost and to pay compensation for the distress and inconvenience caused by the poor service he'd received, including the fact it had completely disregarded the fact he had ADHD in the handling of the claim, the delay in replacing his bank card and the constant chasing which had exacerbated the symptoms of his ADHD.

Monzo explained that it wouldn't have been able to cancel the payment because even if a payment shows as 'pending', it has already been authorised and is waiting to be collected by the receiving bank. It said it couldn't refund any of the money he'd lost to the scam because it had no link to the recipient, and it couldn't raise a chargeback request against M because it hadn't done anything wrong. But it did accept there had been delays in the handling of the claim, ordering the replacement card, responding to messages on the in-app chat and in responding to the complaint, offering £175 compensation for these failings.

My provisional findings

I thought about whether Monzo could have done more to recover Mr R's payments when he reported the scam to it. Chargeback is a voluntary scheme run by Visa whereby it will

ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed. Our role in such cases is not to second-guess Visa's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Monzo) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder (Mr R).

Mr R's own testimony supported that he used cryptocurrency exchanges to facilitate the transfer. It's only possible to make a chargeback claim to the merchant that received the disputed payments. I noted it was most likely that the cryptocurrency exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Mr R's payment, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined to fail, therefore I was satisfied that Monzo's decision not to raise a chargeback request against either of the cryptocurrency exchange companies was fair.

I was satisfied Mr R 'authorised' the payment for the purposes of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr R is presumed liable for the loss in the first instance.

The scam

There was no dispute that this was a scam, but although Mr R didn't intend his money to go to scammers, he did authorise the disputed payment. 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.

I 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'd seen, M was a genuine cryptocurrency exchange company. However, Monzo had an obligation to be alert to fraud and scams and this payment was part of a wider scam, so I needed to consider whether it ought to have intervened to warn Mr R when he tried to make the payment. If there are unusual or suspicious payments on an account, I'd expect Monzo to intervene with a view to protecting Mr R from financial harm due to fraud.

The payment didn't flag on Monzo's systems. I considered the nature of the payment in the context of whether it was unusual or uncharacteristic of how Mr R normally ran his account, and I didn't think it was. This is because it was to a legitimate cryptocurrency exchange company and it wasn't for a particularly large amount, so it wasn't suspicious or unusual. So, I didn't think Monzo missed an opportunity to intervene to prevent Mr R's loss.

Reasonable adjustments

Mr R complained that Monzo failed to make reasonable adjustments for him under the Equality Act 2010. I took the Equality Act 2010 into account when deciding the complaint — given that it's relevant law — but I ultimately decided this complaint based on what's fair and reasonable. I explained that if Mr R wants a decision that Monzo has breached the Equality Act 2010, then they'd need to go to Court.

Mr R had suggested that because he has ADHD, Monzo should have intervened each time he made a large payment. But as I explained above, it is already expected to intervene if consumers make payments that are suspicious or unusual and we wouldn't expect it to stop

payments simply because Mr R has ADHD, especially as I'd seen evidence that he had previously expressed concerns to it about blocking payments.

Mr R told Monzo he had ADHD, but it wasn't on notice about how it affects the way he manages his finances and there had been no agreement about reasonable adjustments, so it didn't know whether he required any. He had explained the ADHD means he struggles to manage his finances, but this was never made clear to Monzo. So, I didn't think the type of adjustment Mr R required was obvious, especially as an exchange he had with Monzo in 2022 suggested he was nervous about things going wrong when making large payments, as opposed to an issue around impulsive spending.

Mr R also said that Monzo ought to have stopped the payment from going through because it was still pending when he reported the scam to it. But it had explained that pending simply meant it was waiting to be collected by the merchant, and there was nothing it could do to stop it because it had already been authorised. I was satisfied that explanation was reasonable and that there was nothing it could have done to stop the payment by the time Mr R reported to scam to it.

Compensation

Monzo offered Mr R £175 compensation for failings in the service he received. It accepted there were delays investigating the claim and that this left him feeling it wasn't taking his concerns seriously. It also accepted that even though he first contacted it about the payment on 29 January 2023, it didn't issue its final response until 28 March 2023. It apologised for this delay and accepted it responded to the complaint outside of its 35-day time limit. It also accepted it was slow to respond to Mr R via the in-app chat and that he had to wait for a response on more than one occasion. And that there was a delay in sending a replacement card.

I thought about how Monzo's failings affected Mr R and I didn't think £175 compensation reflected the impact its failings had on him. Mr R was left unable to sleep and the symptoms of his ADHD were exacerbated by the way Monzo communicated with him. I accepted he was very worried and frustrated and that Monzo failed to consider that his ADHD meant the situation might have been more distressing for him. So, I was minded to direct it to pay a further £175 compensation (in addition to the £175 it had already offered).

Developments

Mr R hasn't responded to the provisional decision.

Monzo has argued that an additional £100 would more fairly compensate Mr R for what went wrong and for the impact to his mental health.

On the issue of compensation, it has commented that there were no vulnerability flags on Mr R's customer profile, and it didn't know he had ADHD until 3 February 2023. It has explained that if it had known sooner, it could have put steps in place to support him.

Monzo has also pointed out that Mr E said his mental health was affected by its inability to prevent his loss, which is at odds with the finding that it couldn't have prevented his loss. And that the time he spending chasing it for updates shouldn't be considered because as he was told he would be updated but continued to chase for updates.

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.

I have considered the additional points raised by Monzo, but my findings on what I consider to be fair and reasonable compensation remain the same. I accept Mr R didn't tell Monzo he had ADHD until 3 February 2023, but I'm satisfied it was on notice that he had ADHD by the point at which the accepted failings happened.

I note the comments about scam liability and the time Mr R spent chasing Monzo for updates. I didn't consider the impact of the loss in my assessment of what was fair and reasonable compensation. My assessment is based on how Monzo's failings in the period after Mr R reported the scam to it affected him. In concluding that Monzo should pay further compensation, I have thought about the impact on Mr R of Monzo's failings and not the impact of his own actions, and I maintain that an additional £175 is fair and reasonable.

My final decision

My final decision is that I uphold this complaint in part and direct Monzo Bank Ltd to pay Mr R an additional £175 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 December 2023.

Carolyn Bonnell
Ombudsman