

The complaint

Mr G is unhappy Wise Payments Limited won't refund money he transferred to a fraudster.

What happened

On 17 December 2021, I issued my provisional decision on this complaint. I wanted to give both parties the chance to provide further information in advance of my final decision. That provisional decision forms part of this decision and I've copied it below:

what happened

Mr G was the victim of an investment scam. He watched some promotional videos on a popular online video platform and then, after filling out some personal details, he was contacted by someone claiming to be able to help him invest money. They showed him a website and trading platform – which he says seemed to mimic the movements of the actual stock market

On 8 February 2020, after several failed attempts to transfer money directly to the fraudster from his account at another financial business, which I'll call N, he created an electronic money account with Wise. Then, on 10 February 2020 Mr G transferred £95,000 from his account at N to his new Wise account. The same day he created two international payments, one for £47,600 and another for £47,400. The two payments were paid to an account in another country the next day.

Mr G appeared to be making a healthy profit and was encouraged to invest more and more. He made further payments from other bank accounts until mid-May 2020 which totalled around £18,000.

Mr G had introduced several friends to the scheme but when his sister spoke to the fraudster, she wasn't convinced by their explanation of how the apparent profits were being made. After hearing her concerns, Mr G tried to withdraw his money from the trading account but was unable to – seemingly confirming his sister's suspicions that Mr G had been the victim of fraud. Mr G first reported the scam to N and it contacted Wise on 12 June 2020. This action appears to have led to Mr G's Wise account being closed.

Mr G complained to Wise. It said, as per its terms and conditions, it wasn't liable for Mr G's loss and it was appropriate to close his account after having been contacted by N about a possible scam. And, though it had attempted to retrieve Mr G's money, it had not heard anything back from the bank which received it. It also apologised for its correspondence not being clearer when Mr G contacted it about the scam.

Unhappy with the response, Mr G referred the matter to our service. One of our investigators upheld his complaint. They thought Wise ought to have questioned Mr G about two very large payments he was making so soon after the account had been opened. In the investigator's view, such a conversation would have likely revealed the scam and prevented the loss.

Wise disagreed. In summary, it said:

- *Its due diligence procedures were in line with current standards*
- *It disputes that the amount of a transaction is necessarily an indicator that a customer is more likely to be the victim of a scam*
- *Mr G's bank would be in a better position to identify any unusual transactions, given that it can review his previous account history*
- *Warning customers about scams will not necessarily lead to a scam being prevented*
- *Mr G's use of Wise to make two large international payments is fairly typical of how customers use its services*
- *There's no obligation on it to provide advice to customers*

As no agreement could be reached, the case was passed to me for a final decision.

What I've provisionally 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 accept that these were authorised transactions even though Mr G was the victim of a sophisticated scam. He authorised the payments and under the Payment Services Regulations 2017 he is presumed liable for the loss in the first instance.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Wise 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 payment service providers 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.*

I've thought carefully about Wise's obligations in this case, particularly given that Mr G was a new customer without previous activity to compare his actions against.

I accept that Mr G's use of Wise's services was broadly in line with what it would expect – a customer opening and funding an account specifically to make international payments. So, the fact Mr G deposited money into his account just a day or two after

opening it and then sent that money on internationally is unlikely to have stood out as being remarkable, suspicious or unusual activity to Wise. Unlike his current account provider, Wise had no account history to compare the transactions against.

Wise says that it was able to satisfy itself that the money Mr G transferred to the fraudsters had genuinely come from a bank account in his own name, so while it might not have known detailed information about the origins of the money, it didn't have any concerns about where it had come from. In any case, it's not disputed that the source of the funds was a genuine account held in Mr G's name. While Mr G finds it surprising that Wise didn't require photographic identification from him at the time, even if they had required this, it's difficult to see how such a requirement would have prevented the scam. There's no reason to think Mr G wouldn't have provided this if asked.

I've also seen nothing to suggest that Wise would have known who controlled the account that the funds were being sent to or that it had previously been informed that the account was involved in fraud. I don't think there are any checks it could have reasonably carried out on the account given that it was held at another bank, in another country. So, I'm satisfied Wise was not on notice that the recipient might be involved in fraudulent activity.

That means Wise would have seen a pattern of activity which would be broadly in line with how it would expect its customers to use its services, it would have been satisfied that the money Mr G had deposited into his account had come from an account held in his own name and wouldn't have had any concerns about the destination of the funds. For these reasons I'm not persuaded Wise knew, or ought to have known, that Mr G was at risk of financial harm from fraud when making these payments.

I do accept that the amount of each payment was substantial and there was a risk, as with any other payment, that they were being made as a result of fraud. But, without any specific indication that Mr G was at risk, then, at most, I could only reasonably expect Wise to provide some general warnings or information about scams and not, as the investigator suggested, a conversation with Mr G prior to releasing the payments.

Wise's submissions suggest they did not provide any warnings – verbal or written to Mr G. I understand it is trialling warnings for certain customers, but not more widely. While Wise questions the efficacy of such warnings, providing a warning or information about common fraud and scams to customers does not seem to be a particularly onerous requirement and is in line with good industry practice.

But, having considered the matter carefully, even if Wise had provided general warnings or information about common scams during the payment journey (which is all I could expect of them in the circumstances), I don't think this would have made a difference to whether Mr G went ahead with the payments.

The scam had a high degree of sophistication and it's one that Mr G was clearly very taken in by. He was prepared to overlook negative reviews of the investment company and invest significant amounts of money with them. He clearly found the fraudulent website, trading platform and conversations with the fraudsters very convincing. So, considering that, it's very hard to see how a general warning or information about common scams would dissuade him from proceeding with the payments.

That means that, while I've found that Wise could have done more here, I'm not persuaded that it would have made a difference to Mr G's position. So, while I know this will be very

disappointing for Mr G, I don't think Wise has acted unfairly by declining to refund the payments.

I've seen that Wise wasn't very clear when they communicated with Mr G after he reported the scam but I'm satisfied it apologised for this, which I think is sufficient in the circumstances. And, as N contacted Wise before Mr G did and informed them that Mr G's Wise account had been involved in a scam, Wise's action to close his account does not seem unreasonable.

Finally, I've seen evidence that Wise did attempt to retrieve Mr G's money but I can't see that it ever received a response to its requests. Given that it was several months before Mr G reported the scam, even if the receiving bank had responded, it seems very unlikely that any of Mr G's money would have remained. So, I think Wise have taken reasonable steps to try and recover the money.

My provisional decision

For the reasons I've explained, I'm not minded to uphold this complaint.

Wise did not respond to my provisional decision, but Mr G didn't agree with it. I've summarised below what I think are the main points he's made, but I'd like to assure him that I've carefully considered every point he's raised – even if I haven't specifically addressed it.

- He was vulnerable due to being over the age of 60 and living through the pandemic while being in a high-risk category, but this hasn't been taken into account
- Wise haven't adhered to FCA requirements or their own terms and conditions by failing to properly identify and verify him when he opened the account
- Wise also failed in its obligation to find out the purpose and intended nature of his relationship with it when he opened the account
- Had they done the above, that would have been an opportunity to identify him as a potentially vulnerable customer and to have asked questions about what he was doing
- Contrary to the provisional decision, Wise do take into account the amount of the transaction when deciding whether to stop it – their terms state they may require more information for larger transactions
- Wise took over a month to contact the receiving bank and this delay might have made a difference
- Wise's own terms say they are required to carry out due diligence on all parties to a transaction – including the recipient. But this didn't happen
- He isn't concerned about the administrative issues he faced and feels this is just a way to deflect from the central point of the complaint.

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 considered Mr G's points carefully, I'm afraid that my decision remains unchanged. I'll explain why.

The focus of Mr G's response is to argue that Wise failed in its obligations to verify him as a new customer and, if it had carried out sufficient checks, it is at least a possibility that the scam would have come to light.

Regardless of whether Wise's identity checks were sufficient at the time, the fact remains that Mr G was who he said he was, and the source of his funds was entirely legitimate

I think it's important not to conflate Wise's obligations to properly identify Mr G as a customer with their obligation to protect him from financial harm from fraud. These are somewhat separate obligations and the latter only arises where a financial business has reasonable grounds to believe their customer is at risk from fraud.

Mr G understandably argues that Wise wouldn't know whether he was at risk of financial harm from fraud because they didn't make any enquiries – either about the payments or his circumstances. But the only way in which Wise could have known whether Mr G was at risk of fraud was to ask him questions that went significantly beyond establishing his identity, the source of the funds and how he intended to use the account. I can't fairly say that Wise had such an obligation in the particular circumstances of this case. Had it carried out further checks those could, and likely would, have been carried out electronically – so it doesn't follow that an opportunity to question Mr G would have necessarily ever arisen.

Neither do I think Mr G's circumstances that Wise actually were, or ought to have been, aware of should have led them to make further enquiries. Had Wise carried out more detailed identity checks – I don't think this would have revealed any vulnerability. Mr G's age would have likely already been known to Wise – as I understand a date of birth is required on account opening. And, in any case, Mr G's age does not, in itself, indicate he is vulnerable to fraud. Neither have I seen or heard anything in his correspondence with our service (which I think has been measured and thoughtful), Wise or the other financial businesses involved in his complaint that would indicate that he is particularly vulnerable to scams.

While Mr G suggests the delay that asking for further identity documents might have caused may have led him to reconsider – I can't agree as the scam continued for months after the payments were made. So, even if I were to accept Wise could have done more to verify Mr G, I can't reasonably say this would have led to the scam being revealed.

Mr G has pointed to term 9.1 of Wise's customer agreement as evidence that it did have obligations in relation to the recipient of the funds. 9.1 said at the time:

'We are required by law to carry out all necessary security and customer due diligence checks on you (including any parties involved in your transaction for example, your recipient) in order to provide any Services to you.'

While not explicit, this term likely reflects Wise's legal obligations not to facilitate payments to recipients which are *known* to be involved in fraudulent or illegal activity or are sanctioned. The way the receiving account was being used would be unknown to Wise – so the only checks they could have done would be using information already known or available to them. Again, this is not an investigative duty to find out information from Mr G about the recipient.

Wise's terms do state they might require more information for transactions over a certain amount, but they are explicit in saying this is to establish how the funds were obtained, not where they are going. Again, even if I accepted Wise ought to have done this – then there's every reason to think Mr G would have provided the required information, given that the source of his funds was legitimate.

I agree there was a delay between Wise being informed of the scam and it being reported to the receiving bank. But, I think the key point here is that the receiving bank did not respond. So, while I think Wise could have acted sooner, I can't agree this would have made a difference to the recovery of money which, in my experience, is very unlikely when a bank in another country is involved and the scam is not reported until several months later.

Mr G says the bank he paid is the same as he paid using another of his accounts and that it had a London office which Wise could have contacted. In fact, I understand the Wise payments went to a different bank, one that does not appear to have a U.K. presence.

I know this is intensely disappointing for Mr G and the loss of his funds has clearly had a significant impact on him. But, for the reasons I've explained, I don't think Wise acted unfairly by allowing the payments Mr G made to leave his account unchallenged as I don't think there were sufficient grounds for Wise to believe that he was at risk of financial harm from fraud.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 29 March 2022.

Rich Drury
Ombudsman