

The complaint

Mr L complains that Wise Payments Limited (“Wise”) won’t refund the money he lost to a scam.

What happened

The details of this complaint are well known to both parties, so I won’t repeat everything again here. In brief, Mr L fell victim to a scam after seeing an advert with a well-known financial celebrity who appeared to endorse a company that I will call B.

Mr L registered his interest in B and was told that B would trade crypto on his behalf. The funds that he sent to B were originally sent to his Wise account from a different account he held with a bank I will call D. Mr L has said that B made the transactions on his behalf using remote access software.

So, over a couple of months between November 2021 and May 2022, B on behalf of Mr L made a number of transactions from D to his Wise account and these were then sent via transfer to several different people’s accounts who were associated with B and to a crypto exchange.

Mr L realised he had been scammed after he was unable to withdraw his funds from B.

I issued a provisional decision on 14 March 2024 in which I said the following;

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

It isn’t in dispute that Mr L has fallen victim to a scam here, nor that he authorised the disputed payments he made to the scammer even though he says the scammer made them on his behalf. The payments were requested using his legitimate security credentials provided by Wise, and the starting position is that firms ought to follow the instructions given by their customers, in order for legitimate payments to be made as instructed.

However, I’ve considered whether Wise should have done more to prevent Mr L from falling victim to the scam, as there are some situations in which a firm should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character for that account holder.

I understand the investigator considered that the payment of £7,995 made on 29 April 2022 ought to have been regarded as unusual, given that it was larger than the payments that Mr L usually made and that it was a payment to a crypto exchange. In my view this really should have been flagged by Wise as being unusual account activity. Especially considering that it was being sent to a crypto exchange.

But given the size of the payment that was made and that Wise is an Electronic Money Institution I think that any intervention at this point should have been limited to a online tailored scam warning. So, I have considered whether such a warning would have stopped the scam. In this instance though Mr L has confirmed that it was the scammer making the payments using remote access. This has led me to conclude that Mr L would not have seen any warning that was provided, and I don't think the scammer would have heeded any warning either.

In addition had further interventions happened later in the scam when larger payments were made I don't think the scam would have been stopped. I say this because either the scammer would have given misleading information if questions had been asked on a online chat or further warnings would have been ignored by the scammer.

So overall I think that Wise should have intervened and provided a warning, but I don't think that this would have stopped the scam. It follows then that I currently don't think that Wise should refund any of these transactions.

I have considered whether the payments in question could have been recovered by other means but given the timescales involved, the method of the payments and that Wise is not a signatory of the Contingent Reimbursement Model I don't think that the funds could be recovered.

I appreciate this will likely come as a disappointment to Mr L, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded Wise can fairly or reasonably be held liable for his loss.

Wise did not add any further points in response to my provisional decision. Mr L's representative raised a number of points including;

- Wise should have systems in place to detect remote access software
- Wise should call consumers rather than using in app messages
- it is not appropriate to say that just because Wise is an EMI that an in-app warning is a proportionate intervention.

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 relation to the points that Mr L's representative has raised I do not know of any rules or regulations that specify that Wise should have remote access detection software. So, I can't say that it did anything wrong in not having it in place.

I note Mr L's representatives' comments that it believes that Wise should call consumers rather than use in app messages. I think that there are occasions when a human intervention rather than an online warning would be appropriate such as online chat, but I don't think it would be reasonable to dictate that this must be done with a phone call. I am also not aware of any rules or regulations that specify that an intervention must be done this way.

In relation to me saying that I think a tailored warning would be an appropriate intervention. I did not say that solely because Wise is an EMI, though that is a factor as accounts such as Wise are generally used differently to traditional current accounts, I also factored in the limited payment history and the size of the payments. Taking all of this into consideration I think that an online tailored warning would have been sufficient.

In any event, as I explained, had a stronger human intervention taken place, and I don't think that it needed to, I don't think that it would have made a difference as the scammer had control of Mr L's computer via remote access software. So had any questions been asked or warning given I think that either the scammer would have provided misleading answers or warnings would have been ignored.

So, in summary I think that Wise should have intervened more than it did, but I don't think that this would have prevented the scam. Given this I cannot hold Wise reasonably responsible for Mr L's loss.

My final decision

My final decision is that I do not uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 25 April 2024.

Charlie Newton
Ombudsman