

## **The complaint**

Mr D complains that Wise Payments Ltd has declined to refund payments that he says he made as part of an investment scam.

## **What happened**

Mr D says that in June 2022 he fell victim to a sophisticated investment scam. Between 19 July and 18 August 2022 Mr D made eight card payments to a cryptocurrency platform, totalling over £11,000. From there he made payments to a third-party company that he now believes to be fraudulent. Mr D also made a further payment on 20 September 2022 that he has not specifically disputed but may have been part of the same scam.

When Mr D reported the scam to Wise, it declined to refund the payments. It said Mr D had authorised the payments and so he wasn't entitled to a refund. Wise added that it had tried to recall the payments, but the merchant didn't respond, and that it didn't think a chargeback would be successful in the circumstances.

Mr D complained and said that Wise had a duty of care towards him and that it should have done more to identify the transactions as suspicious and to protect him from financial harm.

Wise didn't agree, it said it wasn't foreseeable that the transactions were fraudulent. The payments were verified and that it wasn't its role to undertake due diligence on third parties who weren't its customers.

When Mr D referred the matter to our service, the investigator didn't uphold the complaint. In summary they said that Mr D had authorised the payments and that they didn't think Wise had failed in its obligations to identify and prevent potentially fraudulent payments because the disputed payments wouldn't have appeared suspicious at the time.

Mr D didn't agree, he said he had never bought cryptocurrency before and that the total amount he sent in a short amount of time did represent an increase in spending from his normal activity. Mr D also highlighted an FCA (the Financial Conduct Authority) warning about the cryptocurrency platform.

The investigator and a colleague responded that Wise is an electronic money institution (EMI) and that it's common for the type of account Mr D holds to be used to transfer large amounts and for payments to cryptocurrency platforms. They also explained that the warning Mr D referenced was for a company in the same group as the cryptocurrency platform paid here and that the warning set out that purchasing cryptocurrency isn't a regulated activity – it didn't say that the company was not a legitimate company.

As Mr D didn't agree, the complaint has been passed to me to decide.

## **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'm not upholding this complaint for fundamentally the same reasons as the investigators gave previously. I appreciate this will be disappointing for Mr D as he has lost a significant amount of money, and I'll explain why I don't think it would be fair to hold Wise responsible for this.

It isn't in dispute that Mr D made the disputed payments and so they were authorised. This means the starting point under the relevant regulations is that Wise was expected to execute those payments without undue delay.

Mr D is correct that Wise also has certain duties to protect its customers, including against the risk of financial loss due to fraud. And that it should have systems in place to identify unusual transactions or other signs that might indicate its customers are at risk of fraud.

Here, Wise didn't identify the activity as potentially fraudulent, so I've considered whether the disputed payments here were so unusual or suspicious that they ought to have given Wise sufficient grounds for suspecting fraud. Having done so, I don't think they were for the following reasons:

- The amount of each disputed payment ranges from £1,180 to £1,990. As Mr D had previously made payments for similar amounts, for example £1,500 and £1,600 in March 2022 from his Wise account, I don't think the payment amounts would have appeared unusual.
- The payment amounts are also not particularly large in themselves, to be considered high risk or suspicious.
- Mr D has said he paid out around £7,500 in the first 17 days of August which he thinks represents an increase on his previous spend. Whilst in hindsight we can identify a series of payments which grouped together total a larger amount, I need to consider whether each payment would have appeared suspicious at the time it was made. For me to conclude that Wise ought to have intervened, there would need to be a specific payment that would have appeared suspicious or uncharacteristic at the time.
- The disputed payments are spread out over the course of over a month. The amounts don't significantly increase and in terms of frequency mostly there is only one per day, with occasionally two being made. There are also gaps, for example no payments are made between 3rd and 15th August 2022. This pattern of spending is not particularly suspicious.
- I would not expect the warning Mr D has highlighted to have been cause for concern to Wise, as while it related to a business in the same group as the payee, it would be well known to Wise that purchasing cryptocurrency isn't a regulated activity.
- I appreciate Mr D says he'd never sent money to a cryptocurrency platform before. But given Wise is an EMI, it would also not have been unusual for it to be instructed to make payments to a cryptocurrency platform. So, I don't think this is enough on its own to have made the payments appear suspicious.

For the reasons explained, I don't think Barclays has failed in its obligations by not identifying the payments as potentially fraudulent.

In terms of the steps Wise took once Mr D had reported the scam, I can see it attempted to recall Mr D's funds and that this was unsuccessful. For completeness I agree that it would be unlikely that a chargeback would have been successful as Mr D did receive the service from

the cryptocurrency platform. It was a separate third-party company that operated the scam. Mr D has mentioned the contingent reimbursement model (CRM), please note this isn't relevant to card payments which is how the disputed payments were made. So, I don't think there's anything further Wise ought to have done in the circumstances.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 13 November 2023.

Stephanie Mitchell  
**Ombudsman**