

The complaint

Mr K complains that Wise Payments Limited won't refund the money he lost when he was the victim of a scam.

What happened

In June 2022, Mr K says he was contacted by a woman via a social media website. He says the woman told him she could help him get good returns by investing with cryptocurrency and showed him how to open an account and a wallet with a cryptocurrency exchange. As the woman told him his money was safe and would stay in his name, and he couldn't find any reports of similar scams online, Mr K says he decided to go ahead and invest.

He initially made a small investment and then, as the woman showed him he was making a profit, he started paying larger amounts into his account. I've set out the payments Mr K made from his Wise account below:

Date	Amount
20 June 2022	£100
20 June 2022	£900
20 June 2022	£700
21 June 2022	£1,800
24 June 2022	£3,000
24 June 2022	£750
25 June 2022	£100
25 June 2022	£2,000
26 June 2022	£2,000
27 June 2022	£3,000
28 June 2022	£3,000
29 June 2022	£1,950

Unfortunately, we now know the woman was a scammer and Mr K lost all the money he sent to the investment. The scam was uncovered after Mr K saw money had been removed from his wallet with the cryptocurrency exchange. He asked the woman about this but was told he had to pay more money in to get higher profits and, when he refused to do this, he was told he had to pay a penalty to withdraw his money. Mr K again refused to pay in anything further and reported the above payments to Wise as a scam.

Wise investigated but said it was legally obliged to follow Mr K's instructions to make the payments and it was his responsibility to make sure the person receiving any payment was genuine. It also said Mr K had previously made payments to other cryptocurrency exchanges, so it didn't find these payments to be unusual. And so it didn't agree to refund the money Mr K had lost. Mr K wasn't satisfied with Wise's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think Wise had done anything wrong in allowing the payments to go through, as they didn't think the payments were

significant or unusual enough that Wise should have intervened. So they didn't think Wise should have to refund the money Mr K lost. Mr K disagreed with our investigator, so the complaint has been passed to me.

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 don't think it would be fair to require Wise to refund the money Mr K lost. I'll explain why below.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And a customer will then be responsible for those transactions that they have authorised.

It's not in dispute here that Mr K authorised the payments. He accepts he made them himself to purchase cryptocurrency, as instructed to by the scammer. So while I recognise that he didn't intend the money to ultimately go to scammers, the starting position in law is that Wise was obliged to follow his instructions and process the payments. So Mr K isn't automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So I've also thought about whether Wise did enough to try to keep Mr K's account safe.

But the first few payments Mr K made to this cryptocurrency exchange weren't for what I'd consider to be particularly large amounts, weren't significantly larger than other payments made out of the account in previous months and didn't leave the balance of the account at particularly unusual levels.

And while the later payments Mr K made were for larger amounts, they still weren't for what I'd consider to be particularly large amounts. And the payments fluctuated in size significantly, so I don't think they formed a particularly suspicious pattern that Wise ought to have identified.

This kind of account is also often used by customers for occasional large payments, so these types of payments wouldn't have seemed particularly unusual to Wise. And Mr K had made a number of other payments to other cryptocurrency exchanges in the previous months, so payments for this purpose wouldn't have looked particularly unusual or suspicious either.

So I think it's reasonable that Wise didn't identify that Mr K could be at risk of financial harm as a result of any of these payments, and didn't intervene to ask any further questions before allowing them to go through.

I've also considered whether Wise did enough to try to recover the money Mr K lost. Once they have been notified of a scam, we expect businesses to take reasonable steps to try to recover any money their customers have lost. But any attempt Wise made to recover the money here would likely have been unsuccessful, as any recovery attempt would have gone to the bank of the cryptocurrency exchange. And the cryptocurrency exchange hadn't done anything wrong – it had just allowed Mr K to purchase cryptocurrency, as he'd asked to. So I don't think anything we would reasonably have expected Wise to do would have recovered the money Mr K lost.

Mr K has also said Wise shouldn't have allowed the payments he made to go through, as its website says it doesn't allow sending money to any cryptocurrency related business. And I accept that the website could be clearer, but Wise has shown that its terms and conditions say this only applies to money transfers, and not to card payments – which the payments Mr K made were.

In any event, Mr K accepts he wanted to make the payments at the time, he made other payments to cryptocurrency related businesses that he's not disputing and I've not seen anything to suggest he thought at the time that the wording on the website meant Wise would stop the payments. So I don't think it would be fair to require Wise to refund the payments he made as a result of any confusion the wording on its website caused.

I sympathise with the position Mr K has found himself in. He has been the victim of a cruel scam and I appreciate that my decision will come as a disappointment to him. But, for the reasons I've set out above, I don't think Wise has acted unreasonably or that anything I would reasonably have expected it to do would have prevented this scam. So I don't think it would be fair to require Wise to refund the money Mr K has lost.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 1 December 2023.

Alan Millward
Ombudsman