

The complaint

Ms K complains that Wise Payments Limited ('Wise') won't refund the money she lost in a scam.

What happened

Ms K says she saw an advert about investing with a company I'll refer to as L on a social networking site. She left her details and received a call and then messages from an advisor who persuaded Ms K to invest. Ms K was told that she needed to open an account with Wise and says that she allowed the advisor from L to move funds from her Wise account using a remote desktop application.

Miss K made the payments in the table below to an international account:

GBP account

Date	Amount
13/07/21	£7,000
22/07/21	£6,050
26/07/21	£950
26/07/21	£1,000
28/07/21	£2,500
29/07/21	£3,000
31/07/21	£1,200
04/08/21	£3,470
11/08/21	£1,780

Euro account:

Date	Amount in euros
09/08/21	3,000
17/08/21	2,300
19/08/21	2,870
23/08/21	2,650
26/08/21	1,863
27/08/21	1,511
31/08/21	2,190

The final payment of €550 was to a named individual in a different country.

Ms K received a withdrawal confirmation which said that £90,832 had been paid to another of her accounts with a different bank but this wasn't the case and the advisor stopped communicating with Ms K.

Ms K reported the scam to Wise in February 2022. Wise referred to its account terms and conditions and didn't agree to reimburse Ms K. In particular, Wise relied on terms that said payments can't be cancelled or recalled, that it can't get involved in disputes and that it isn't

responsible for losses that aren't foreseeable. Wise attempted to recall the majority of the payments from the international bank they were sent to but was unsuccessful. It was unable to do anything about the final payment because of where it was sent. In recognition of the fact, it didn't issue a final decision letter promptly though, Wise credited Ms K's account with £75.

Ms K wasn't happy with Wise's response and brought a complaint to this service.

Wise told this service that it hadn't received any previous reports about the recipient accounts and that all but one of the payments appeared to go to an external international account in Ms K's own name. Wise also pointed to the fact that Ms K's account was used in the manner expected of such an account – for cross border and cross currency payments.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. In summary, she said that the account was opened for the purpose of making the payments and Wise had no reason to be concerned about them. In any event, even if Wise had intervened, the investigator didn't think it would have made a difference as Ms K didn't tell another bank the real reason for the payments.

Ms K didn't agree with the investigator's findings. In summary, she said:

- The fact the account with Wise was newly opened doesn't absolve Wise of its responsibility to protect her.
- The payments were unusual. Ms K referenced good industry practice and FCA guidance.
- Wise ought to have known she was dealing with a scammer and the risk of harm was foreseeable. It was the first time Ms K had used cryptocurrency and Wise, as the expert, should have warned her of the risks involved.
- An intervention from Wise would have made a difference and she'd have ceased to make payments.

The complaint has now been passed to me to consider.

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'm very sorry that Ms K has lost so much money in a cruel scam. I need to decide whether it would be fair and reasonable for Wise, in all the circumstances of this case, to be held responsible for this loss. Overall, I've decided that it wouldn't and will explain why.

Wise is an electronic money institute (EMI) and not a bank so isn't subject to the same expectations set out in guidance and regulations as a bank when it comes to fraud prevention. Wise should execute payment instructions without undue delay. And as a starting point there is a presumption that liability for authorised payments is on the payer, even where it might have been made as part of a scam.

I think Wise might be liable for reasonably foreseeable losses if, in breach of its duty of care, it fails to act on information which ought reasonably to alert a prudent authorised payment institution to potential fraud or financial crime by, or against, its customer. But I don't think Wise has failed in its obligations to Ms K in this case.

Ms K opened the account with Wise on 9 July 2021 and only used it to make the scam payments. When she opened the account, she told Wise the purpose of the account was to pay for goods or services abroad. She then made multiple international payments. Wise specialises in international payments and the payments were in line with the reason Ms K gave to open the account, so there wouldn't have been anything concerning to Wise about making international payments.

I note Ms K has referred to the fact she was making cryptocurrency payments, but I can't see anything which suggests Wise should have known this. All payments were international payments and all but one were to an account which was seemingly in Ms K's own name. I've not seen any evidence to suggest Wise knew or ought reasonably to have known the payee account was involved in fraud and Wise has confirmed to this service that it hadn't received any reports about the recipients of Ms K's funds.

I consider Wise ought reasonably to have given a general scam warning when Ms K made the first payment of £7,000 though – given its value. I've asked Wise if it gave Ms K any warnings and it has confirmed that as it didn't think there was a scam risk no warnings were given. But I'm satisfied that even if Wise had given Ms K a general scam warning it wouldn't have made a difference in this particular case. I say this because Ms K transferred the same amount from her bank account to her newly opened Wise account before making the £7,000 transfer. Her own bank had concerns about the payment and went an awful lot further than providing a generalised scam warning as I think Wise should have done but Ms K nevertheless continued with the transfer.

Ms K lied to her bank about the payment reason when she transferred £7,000 to Wise. I understand Ms K's bank weren't satisfied with the responses Ms K gave to their questions and invoked the Banking Protocol. Ms K was then able to convince the police she wasn't acting under the instructions of a fraudster and the transfer was made. So I'm not persuaded that a generalised scam warning from Wise would have broken the spell and prevented Ms K from making further payments. In the circumstances, I can't fairly hold Wise liable for Ms K's loss.

Subsequent payments were of lower value and didn't fit the usual pattern of scam transactions. They were also nearly all to a payee that became established so were unlikely to cause Wise any particular concern – especially given that the account was new. But again, even if Wise had intervened it seems to me that it's unlikely the loss could have been prevented – for the reasons I have set out above.

Taking into account good business practice and what I deem to be fair and reasonable, Wise is generally expected to assist its customers in recovering funds lost in a scam. Wise has done so but has not been able to recover any funds. So I think Wise has acted reasonably.

There was a delay in issuing a final response letter to Ms K, but I'm satisfied the compensation already paid in respect of this is fair.

Overall, whilst I'm sorry to hear of Ms K's loss, I can't reasonably ask Wise to refund her.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 18 July 2023.

Jay Hadfield
Ombudsman