

The complaint

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

What happened

Mr K has explained that he entered his details online and received a call from someone who said he was from a company I'll call T. He was offered the opportunity to trade on a training platform without paying anything and then decided to invest his own funds. Mr K was helped to open an account with a digital wallet provider and made the payments in the table below to an account in his own name with that provider. Mr K was able to see the funds he sent on a trading platform.

Date	Amount
10/06/22	£2
15/06/22	£3,333
05/07/22	£3,000
15/07/22	£4,000
19/07/22	£2,000
Total	£12,335

Cryptocurrency was then sent from Mr K's account as directed by the representative of T. The trading platform later showed Mr K had £19,000 in his account and he decided to withdraw his funds. At this stage Mr K was asked to pay additional funds and realised that he'd been scammed. He contacted Wise by email on 4 October 2022.

Wise referred to its terms and conditions and said it can't be involved in disputes between senders and recipients but if it investigates a fraud claim and finds someone has used Wise to receive money fraudulently it will block that person. Wise also said that Mr K had made similar genuine transactions in the past so Wise had no reason to be concerned. A recall request was sent to the recipient, but it wasn't successful.

Mr K was unhappy with Wise's response and brought a complaint to this service. He maintained that Wise had failed in its duty to safeguard his funds.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. He said this because he didn't think the transactions Mr K made were so unusual that Wise needed to intervene when they were made. They were relatively low in value, were to an account in Mr K's own name and weren't made in rapid succession – so there was no known pattern of fraud.

Mr K didn't agree with the investigator's findings and asked for a final decision, so the complaint has 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 Mr 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.

Wise is an electronic money institute 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. So I think Wise should be on the lookout for unusual and out of character transactions and exercise reasonable skill and care. But I don't think Wise has failed in its obligations to Mr K in this case and will explain why.

I don't consider the transactions Mr K made were so unusual and out of character compared with his normal account activity that Wise ought reasonably to have intervened. Mr K didn't open his account with Wise for the purpose of the scam so Wise had previous activity to compare the transactions with. In July 2021 Mr K made a transfer of £3,000. Given this, I don't consider transfers of around this amount ought reasonably to have concerned Wise and led it to take additional steps. Mr K told the investigator that this £3,000 payment was to a family member. But the transaction was to a third party and represented normal account activity, so I think it's fair to take it into account.

If the pattern of transactions matched any common scams, I'd expect Wise, in some circumstances, to take additional steps - but I don't think they did. The transactions were made over a period of over five weeks and there was never more than one transaction in a day and payments weren't made on successive days. There also isn't a pattern of increasing payments. And Mr K transferred funds to an account in his own name at an exchange that doesn't just provide cryptocurrency, so it wasn't clear that he was buying cryptocurrency.

I've also taken into account the manner in which Wise accounts are used. It isn't unusual to make larger payments from a Wise account.

So, I think it's reasonable that Wise didn't identify the payments Mr K made here as unusual or do anything further before allowing them to go through.

Wise were unable to recover any of Mr K's funds as they were sent to an account in his name and on from there. I don't think Wise could have done anything more.

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.

My final decision

I do not 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 2 October 2023.

Jay Hadfield

Ombudsman