

The complaint

Mr A complains that Wise Payments Limited (Wise) won't refund the money he lost when he fell victim to a cryptocurrency scam.

What happened

In mid-2022, Mr A responded to an online advert for a cryptocurrency platform (E). E directed him to set up a Wise account as well as a cryptocurrency wallet. He sent funds from his existing bank account (partly funded by a loan) to Wise. With his permission, he says E sent money from Wise to the cryptocurrency wallet – to buy cryptocurrency and load it to E's platform.

Unfortunately, it appears E's trading platform was fake. Mr A realised it was a scam when E told him he would have to pay a significant withdrawal fee to access his funds. He complained to Wise that it should have identified the payments as presenting a fraud risk. If it had intervened appropriately, he said the fraud would have been prevented.

As Wise didn't refund his loss, Mr A referred the matter to our service. Our investigator looked into things – but ultimately didn't uphold Mr A's complaint. In summary, while they thought Wise ought to have done more to protect Mr A, they weren't persuaded appropriate intervention would have uncovered the scam and prevented his loss.

Mr A has appealed the investigator's view. He says he had been directed to use Wise (rather than his own bank) to make the payments due to its weaker fraud controls. And even a generic scam warning, as the investigator suggested should have been given, would have exposed the scam if it was effective.

The case was passed to me. I've been in touch with Mr A to explain why, even if intervention went beyond a generic warning, I wasn't persuaded the scam would have been uncovered – noting the extent of control he granted E, the research he had already done into the company, and his response when his bank questioned him about one of the Wise transfers. I asked Mr A for any further comments or evidence in response.

Mr A says, despite the use of remote access, he still had access to the account. Even if he didn't, Wise would have needed to go through security checks for verification, which E wouldn't have passed. He also says, if questioned, he would have given E's name. And if Wise had told him they weren't regulated, the scam would have been uncovered.

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've decided not to uphold it. I'll explain why.

I accept Mr A fell victim to a scam. But he consented for E to make these payments on his behalf – meaning they are considered authorised under the Payment Services Regulations

2017. Under those regulations, Wise has a duty to promptly execute authorised payment instructions without undue delay. So the starting position is that Mr A is liable for the losses arising from the payments.

However, there are circumstances when it might be appropriate for Wise to take additional steps before processing a payment. Such as when there are grounds to suspect the payment presented a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account. And/or if the account activity fits a known pattern of fraud.

Looking at Mr A's account activity, I don't think Wise had cause for concern immediately. As the account was newly opened, it didn't know how Mr A usually transacted – so the payments didn't appear uncharacteristic. Nor do I think they were high enough in value to prompt fraud concerns.

While I would expect Wise to be aware of the risks of cryptocurrency scams, the sole fact these were cryptocurrency payments wouldn't have made it obvious Mr A was falling victim to a scam. The merchant he paid directly was legitimate. Customers can, and do, purchase and trade cryptocurrency directly from such merchants.

There were also gaps of a week, and then a few days, in between the first few payments - all for similar amounts. This will have contributed to Wise's view of what type of account activity to expect from Mr A. Overall, I consider it reasonable that Wise executed these payments without completing further checks.

There was then a gap of around a month before the next payment, showing Mr A wasn't being rushed into making it and had time to consider whether to proceed. So I can see the case for why the next payment – which at £10,000, was high value – didn't flag for further checks. But at least when a further payment of £10,000 was sent the next day, I do think Wise ought to have intervened. It was a significant escalation compared to Mr A's prior spending.

However, I'm not persuaded that appropriate intervention by Wise at this point (or slightly earlier) would have uncovered the scam. This is because:

- If Wise had issued a warning or reached out to Mr A through web chat or in-app chat, it appears likely the scammers would have seen this and/or responded. That's because he says the scammers were making the transactions for him, using remote access software. I would consider it reasonable for Wise to rely on responses received in this way; it didn't have grounds to suspect anyone else had access to the account. So, it's unlikely intervention of this type would have worked.
- Mr A has pointed out the scammers didn't have unsupervised access to his account. Regardless, it's likely they could have 'explained away' any warning or questioning he saw, reassuring him (as they had already done) they were regulated and making him profits on the platform. He has questioned how we would approach things if the scammers *did* have sole access – but that isn't relevant to my findings.
- Regardless of the above – if Wise had managed to speak to Mr A directly, such as by calling him, I'm still not persuaded it would have uncovered the scam. At this point, it seems he was being heavily guided by the scammers. So I'm not persuaded he would have responded in a way that made the scam risk obvious, despite his assertion he would have mentioned E's role.

- My position is supported by Mr A's contact with his bank when he sent the funds to Wise. His bank's records show he made a £3,000 payment in branch. He gave the purpose of the payment as "making investments". And the note says: *"Customer sending funds to pay for shares. Has used in previous years and is happy genuine"*.
- Mr A says he responded in this way as he thought he was investing in shares. I'm not persuaded by that explanation. I've reviewed all the correspondence between him and the scammers, as well as an archived version of the scam website. I've found no suggestion the scam company claimed, or Mr A otherwise thought, he was purchasing shares. Instead, his messages talk about buying cryptocurrency and gold. So it's unclear why he didn't describe the investment in those terms.
- Furthermore, the bank note says he had used the company "in previous years". Yet he's told us he had just started dealing with E. This suggests the explanation he gave his bank wasn't correct. We know it's common in these types of scams for customers to be coached into giving cover stories if questioned about the payments, to avoid the risk of the scam being uncovered.
- In the circumstances, I'm not persuaded Mr A would have been forthcoming with Wise about what he was doing. Meaning I don't have confidence he would have mentioned E's involvement. The bank response suggests he would have responded in a way to avoid suspicion – likely guided by the scammers on what to say, given their involvement with the payments and the previous cover story.
- I would also point out that, even if Mr A did mention E, I wouldn't have expected Wise to look them up; it's down to Mr A complete his due diligence before deciding to invest with a company. It would be reasonable to expect Wise to guide him on how to research the company (such as how to check if it was regulated). But I agree with the investigator it's unclear he would have done this, given his prior research and his strong belief. He flagged a particular review he says would have made him realise the scam. But that seems unlikely, given he didn't find this initially.

Overall, while I agree Wise didn't do enough to protect Mr A, I'm not persuaded that failure caused his loss. I'm not convinced he would have been dissuaded by Wise, nor that he would have responded to questioning in a way that made the fraud risk apparent. I therefore don't consider it fair to direct Wise to refund Mr A for the money he lost due to the actions of the scammers.

My final decision

For the reasons given above, 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 A to accept or reject my decision before 2 January 2024.

Rachel Loughlin
Ombudsman