

The complaint

Mr K complains about Wise Payments Limited trading as Wise.

He says that Wise didn't do enough to protect him when he fell victim to a scam and would like it to refund him the money he has lost.

What happened

In February 2022, Mr K was contacted via WhatsApp by a 'recruiter' offering an online work opportunity.

Mr K enquired what the job would be, and was sent an incorporation certificate, and a link to their website. Mr K said that he found the information convincing and read through the terms and conditions provided to him.

Mr K was assigned a trainer who showed him how things work – and he made a small amount of money which was credited to his account with Binance without Mr K having to part with any money. Mr K was persuaded to continue and made a payment of €935.24.

However, before he was able to withdraw his supposed earnings, he was told that he had to make a payment for taxes. He then realised he had fallen victim to a scam.

Mr K complained to Wise – but it didn't uphold his complaint. He then brought his complaint to this Service.

Our Investigator looked into things but didn't think that the complaint should be upheld.

Mr K asked for an Ombudsman to consider his complaint, so it 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've decided not to uphold Mr K's complaint for broadly the same reasons as our Investigator. I know this will be disappointing for Mr K, so I'll explain why.

It isn't in dispute here that Mr K has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

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 having been good industry practice at the time.

In broad terms, the starting position at law is that a banks, electronic money institutions (EMI's) and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr K authorised the payment in question here – so even though he was tricked into doing so and didn't intend for his money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, Wise should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Wise should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether Wise acted fairly and reasonably in its dealings with Mr K when he authorised payments from his account or whether it could and should have done more before processing the payments.

Having considered the payment Mr K has made, I'm afraid I don't think it was significantly unusual or uncharacteristic enough for Wise to have had concerns that Mr K was at risk of financial harm and got in touch with him before processing the payment on his request.

I know that Mr K considers that as he has lost money to a scam that he should get the funds back from Wise. But I'm afraid this is not the case. Wise cannot be involved in every transaction a customer makes, and while I understand the payments were being made to a crypto exchange, not every payment made to crypto is as a result of a scam, and Binance, who Mr K made the payment to, is a legitimate crypto exchange.

I am very sorry for the situation Mr K now finds himself in – I know that he acted in good faith and has lost money as a result of a cruel scam – but this is the fault of the scammer themselves, and I can't ask Wise to refund Mr K when I don't think that it has done anything wrong.

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 8 May 2024.

Claire Pugh
Ombudsman