

The complaint

Mr H complains that Wise Payments Limited didn't do enough to protect him from the financial harm caused by an investment scam, or to help him to recover the money once he'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr H responded to an advert about an investment opportunity with a company I'll refer to as "T". He completed an online contact form and was called by someone I'll refer to as "the scammer" who claimed to work for T.

Mr H discussed investment plans with the scammer who helped him to set up an account on T's trading platform. He also told him to download AnyDesk remote access software to his laptop and to open a Wise account, into which he would transfer money from his other bank account before sending it to the trading platform.

Mr H made an initial investment of £200 and saw his investment grow to £900 within a week. He remained in daily communication with the scammer via WhatsApp and he could see what he believed to be live trades on the trading platform. Between 15 September 2022 and 22 September 2022, he made three transfers totalling £50,020.

At the end of October 2022, Mr H visited his other bank to discuss a blocked payment, which is when he realised he'd been scammed and that T was a clone of a regulated company.

Mr H complained to Wise with the assistance of a representative who said it had only intervened once and that it should have identified the transactions as unusual as they were out of character with the usual spending on the account. But Wise refused to refund any of the money Mr H had lost, explaining that high value or unusual withdrawals or transfers didn't automatically generate a fraud warning in every case.

Mr H wasn't satisfied and so he complained to this service with the assistance of a representative. His representative said Wise's refusal to share details of the recipient accounts had denied him the opportunity to recover his funds and that his poor decision making was brought on by a prolonged period of poor health.

Our investigator recommended that the complaint should be upheld. She explained that Mr H opened the Wise account on 6 September 2022, selecting paying for goods and services as the reason for opening the account. He added £20 to the balance and on 15 September 2022 he added a further £10,000 before transferring the whole balance to a new payee.

She commented that as Mr H was making a payment for an investment, it contradicted the reason given for opening the account. And money was paid out to a new payee on the same day it was paid in, so she thought Wise ought to have intervened and asked Mr H how he'd been contacted, whether there was a 'broker' or 'account manager' involved, what checks

he'd done, whether he had a trading account and whether he'd been able to successfully withdraw funds from his trading account.

She said Mr H wasn't given a cover story, so she thought he would've told Wise he was being assisted by an account manager who had told him to open the Wise account and to download AnyDesk to his device. Wise should then have provided advice about how investment scams work and warned him that there were red flags present, which could have prevented the scam. Because of this, she recommended it should refund the money Mr H had lost from the first payment onwards.

Our investigator also said she was satisfied this was a sophisticated scam and that the scammer had built a rapport with Mr H, making him feel in control by allowing him to choose an investment plan. And she accepted he was suffering from multiple health conditions, which was likely to have had a bearing on his judgement, so she didn't think the settlement should be reduced for contributory negligence.

Finally, she explained that Mr H's other bank had agreed to pay 50% of Mr H's loss from the first payment onwards, so she would only be recommending that Wise should pay 50% of the settlement.

Wise has asked for the complaint to be reviewed by an Ombudsman and 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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons.

I'm satisfied Mr H 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr H is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Mr H didn't intend his money to go to scammers, he did authorise the disputed payments. Wise is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

I've thought about whether Wise could have done more to prevent the scam from occurring altogether. Wise ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Mr H when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Wise to intervene with a view to protecting Mr H from financial harm due to fraud.

Mr H opened the account for the purpose of the investment and so there was no account history to compare the payments with. But it's significant that he paid £20 into the account from his other account, followed by £10,000 before transferring the entire amount to P. I accept Wise had nothing compare the spending with, but £10,020 is a large payment and

paying in funds and then sending them out immediately is a pattern of spending that is indicative of fraud. And it would have been clear Mr H was sending money for an investment, which contradicted the reason given for the account opening.

I agree with our investigator that Wise should have contacted Mr H to ask him about the purpose of the payments including what the payments were for and whether there was a third-party involved and if so how he met them. It should also have asked if he'd been told to download remote access software, whether he'd been promised unrealistic returns and whether he'd been allowed to make any withdrawals.

There's no evidence Mr H had been told to lie and so I'm satisfied he would have said he was being advised by someone who worked for an investment company he'd found online, he'd been told to download AnyDesk software to his device, and the initial investment of £200 had grown to £900 within a week.

There were no warnings about T on either the Financial Conduct Authority ("FCA") or International Organisation of Securities Commissions ("IOCSO") websites which would have alerted Mr H to the fact there was a scam. But I think there were enough red flags present for Wise to have identified that the payments were being made to a scam and as I haven't seen any evidence Mr H was keen to take risks with his money, I think he'd have listened to some clear advice from Wise about due diligence and a very robust warning that the payments had the hallmarks of a scam.

Because of this I'm satisfied that Wise failed to intervene in circumstances that could have prevented his loss and so it should refund the money he lost from the first payment onwards.

Contributory negligence

Having considered the circumstances of this scam, don't think it was unreasonable for Mr H to have thought the investment was genuine. I'm satisfied this was a sophisticated scam and I note the account manager had allowed him to choose an investment plan, which had made him feel in control. I'm also satisfied that he was suffering from multiple health conditions which might have affected his judgement.

So, while there may be cases where a reduction for contributory negligence is appropriate, I don't think this is one of them.

Shared liability

As Mr H had complained to his other bank about this scam, I agree that Wise should share liability with the other bank and so it should refund 50% of Mr H's loss from the first payment onwards.

My final decision

My final decision is that Wise Payments Limited should:

- refund £25,010.
- pay 8% simple interest*, per year, from the respective dates of loss to the date of settlement.

*If Wise Payments Limited deducts tax in relation to the interest element of this award it should provide Mr H with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or

reject my decision before 15 January 2024.

Carolyn Bonnell
Ombudsman