

The complaint

Miss H complains about Wise Payments Limited.

She says that Wise didn't do enough to protect her when she became the victim of a scam and would like Wise to refund her the money she has lost as a result.

What happened

In September 2022, Miss H was looking online at investment opportunities and came across what appeared to be a celebrity endorsed scheme offering investment in bitcoin.

Miss H clicked on the website and entered some details and was contacted by phone. The individual who contacted Miss H discussed her reasons for wanting to invest and talked her through how things worked and what to expect.

Miss H was persuaded to invest and was provided a contract and details of her customer portal to see her investments and downloaded Anydesk on request and opened an account with Wise to make the required payments. She was impressed by the knowledge of the individual, who seemed professional and capable.

Miss H made the following payments.

Date	Payee	Payment type	Amount
23/09/2022	Binance	Card payment	£4,500
04/10/2022	Binance	Card payment	£7,165
14/10/2022	Binance	Card payment	£7,000
19/10/2022	Binance	Card payment	£5,000
19/10/2022	Binance	Card payment	£5,000
		Total	£28,665

However, Miss H then had trouble accessing her supposed profits – and was told that she needed to pay more commission in order to release the funds.

Miss H realised she was dealing with a scammer – and complained to Wise.

Wise didn't uphold Miss H's complaint, so she brought it to this Service.

Our Investigator looked into things but didn't think that Miss H's complaint should be upheld. Unhappy, Miss H asked for an Ombudsman to make a decision, so the complaint was passed to me.

I have previously issued a provisional decision on Miss H's complaint where I explained that I was minded to uphold the complaint in part.

Miss H agreed with my provisional decision, but Wise did not.

While I have considered what Wise has said, this hasn't persuaded me to change my decision, so I now issue my final decision and will explain why what it has said hasn't changed my mind.

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, and taking into account what Wise has said, I am still upholding this complaint in part.

I understand that one concern raised by Wise was that my provisional decision was so discrepant to that of our Investigator. However, when an ombudsman makes a decision on a complaint, this is a separate consideration to the view of an investigator and can at times differ in outcome. This is explained on our website, and by our Investigators when a case cannot be resolved by an initial view.

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.

I don't think it is in dispute here that Miss H was taken in by a scam – and while she never intended her money to end up with a scammer, she authorised the payments in question here – and so is presumed liable in the first instance.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations 2017 (PSR's) and the terms and conditions of the customer's account. And I have taken that into account when deciding what's fair and reasonable in this case.

That said, as a matter of good industry practice, Wise should 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 Miss H when she authorised payments from her account or whether it could and should have done more before processing them.

This leads me to consider the payments that Miss H made – and if Wise should have intervened.

The first payment

Having considered the first payment Miss H made to Binance from her wise account, I am not persuaded that Wise needed to become involved at this point. There was no account history for Wise to compare the payment to, and while it was going to a cryptocurrency exchange not all such payments are as a result of a scam – and as I've explained, businesses can't be involved in every transaction.

The second payment

The second payment was for a significantly higher amount than the first – and was the second payment to crypto in only a few weeks. I think that this should have prompted Wise into making further enquiries about what was going on and check that everything was in order especially given that by January 2019, Wise should already have had a good understanding about how scams like the one Miss H fell victim to work.

I understand that Wise has questioned why our investigator said that Miss H slowly increased her spending – whereas I deem this to be a significant increase. But as Wise itself has said, the increase was at almost 60%. I don't believe that this is a slow increase in value of the payments. And while Wise says that the third payment wasn't until three weeks after the first, and it wasn't until this point that Miss H began making payments with increasing frequency, I still think that the second payment was enough to have alerted Wise that something may be wrong and it was at this point it should have intervened, so the gap between the first and third payment is not relevant.

With this in mind, Wise should reasonably have contacted Miss H to establish whether the transaction posed any possibility of placing her in financial harm before processing it. But it did not do so. Had Wise contacted Miss H, I would've expected it to have questioned her about the payment – including what she was making the payment for and surrounding context and to proceed accordingly. The intention being to disrupt or uncover a potential fraud or scam.

I haven't seen anything to suggest that Miss H was coached by the scammer or provided with a cover story as to what she was doing – so I think that she would have said that she came across a celebrity endorsed advert for investment in Bitcoin online and was being helped by someone on how to do so.

The celebrity endorsement alone should have been a red flag to Wise – and it should then have provided Miss H with a meaningful warning on crypto scams – including that fake celebrity endorsements are often involved, as it the use of Anydesk and making further payments for 'commission' before being able to access profits. It could also have told Miss H that often fake customer 'portals' are used to display investment performance that has been fabricated by a scammer in an attempt to prove legitimacy of the supposed investment and directed Miss H to the Financial Conduct Authority's (FCA) scam smart website.

Had Wise done so, I don't think that Miss H would have ignored such a warning – especially

as this warning would have mirrored what was happening to her at the time. And I don't think that Miss H would have continued with the payment.

I know that Wise says that a warning may have been ineffective – but as it didn't provide any such warning when it should have done, I don't think that it can say that Miss H would have likely ignored what a trusted EMI told her.

So, with this in mind, I think that Wise missed an opportunity to prevent Miss H's loss from this point.

While I do consider that Wise should have prevented the payments made the second payment, I do also have to consider if Miss H should bear some responsibility for the loss here too, by way of contributory negligence.

However Miss H is already bearing some of the responsibility here as I am not upholding the first payment that she made – and I do not think that a further reduction for contributory negligence is appropriate in this instance.

Miss H was not a sophisticated investor – and was persuaded by the professional appearance of the scammer, and the advice that it gave her – and further persuaded by the fact that she signed a seemingly legitimate contract. She has also explained that she didn't have any knowledge of the FCA's authorisation register until Wise alerted her to it.

I know that Wise thinks that Miss H should have done more due diligence – but as I've explained Wise was the expert here – not Miss H – and so it should have had more awareness of the intricacies of such scams whereas Miss H was inexperienced in such matters.

Putting things right

Wise should pay Miss H the total of payments two to five.

I calculate this to be £24,165.

On top of this, Wise should pay Miss H 8% simple interest from the date of each payment until settlement (minus any lawfully deductible tax).

My final decision

I uphold this complaint in part.

Wise Payments Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 27 December 2023.

Claire Pugh
Ombudsman