

The complaint

Ms S complains that Wise Payments Limited (“Wise”) won’t refund money she lost when she fell victim to an investment recovery scam.

What happened

Ms S fell victim to an investment scam in 2017. Between 2020 and 2021, she sent money to a company who led her to believe that she would recover the money previously lost. Unfortunately, Ms S had fallen victim to a scam once again. Her complaint about her bank’s actions in relation to these two scams have already been considered by this service.

In 2022, Ms S was contacted by an individual “B” who offered their services in recovering money she had previously lost. She opened an e-money account with Wise under B’s instructions, and between May and June 2022 she transferred over a £100,000 from her bank to Wise. From here, the funds largely were sent to a cryptocurrency exchange for conversion into cryptocurrency, before being sent on to cryptocurrency wallets as instructed by B.

Some of the funds Ms S sent from her bank account to Wise came from a third party. She believed that by putting funds into her account B was helping her continue making payments to recover the money she’s lost (i.e., paying release fees, etc.). Once these funds were received into her Wise account, Ms S sent them on to a third party as instructed by B.

When her main bank questioned her about the credits, Ms S replied that the payments had come in from a friend who had owed her money, and she had transferred the funds to Wise. Concerned about Ms S’s response, her bank closed her account. Separately, Wise carried out a review of the account which had received these funds and decided to also close Ms S’s account.

Unfortunately, B turned out to be a scammer and Ms S reported the matter to her main bank as well as Wise. This decision solely relates to Ms S’s complaint about Wise. Her complaint about actions her main bank took has been considered separately.

Wise refused to refund Ms S’s loss and she made a complaint about its decision, before referring it to our service. Our investigator concluded that Wise couldn’t reasonably have prevented Ms S from making the transactions she had since disputed. In reaching that outcome, they noted that Ms S hadn’t been honest about the credits she had received into her main bank account. The investigator also pointed out that Ms S had previously misled her bank. They were persuaded that Ms S would likely have misled Wise had it intervened and made enquiries about the payments.

Ms S didn’t agree with the investigator’s findings and requested an ombudsman’s decision on the matter.

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.

Ms S's linked complaint about her bank has also been considered by me. As both losses were incurred because of the same scam, I'd like to apologise for the repetition in the decisions.

In deciding what's fair and reasonable in all the circumstances of this complaint, I've considered information our service has received on Ms S's other cases. Having carefully considered everything, I've decided not to uphold this complaint. I'll explain why.

Under regulations and in accordance with account terms and conditions, payment service providers, including Electronic Money Institutions ("EMI") like Wise, should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making that payment. There's no dispute that Ms S made the payments using her security credentials, and so they are authorised.

But in accordance with the law, regulations and good industry practice, a bank should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert it to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.

EMIs are set up with the purpose of sending and receiving money and the type of payments they're generally used for tends to be somewhat different to banks and building societies. Often, the payments will be for larger sums. Where there's no previous account history, what should reasonably strike Wise as concerning for a first payment isn't down solely to the transaction amount involved. I haven't seen any other factors at play here such that, in my view, Wise should have been concerned and ought to have intervened and questioned Ms S before executing her authorised instruction for a payment of £100 to a cryptocurrency exchange on 26 May 2022. Purchasing cryptocurrency is a legitimate exercise.

But the next payment, which occurred the following day, was for just over £12,000. I consider it ought to have given grounds for suspicion. In the circumstances, I also consider the provision of a warning, which covered scam risks involving cryptocurrency, during the online payment journey would have been a sufficient step for Wise to take. We know that no such warning was provided at the time. But, in my view, such a warning is unlikely to have stopped Ms S in her tracks.

I say this because I'm more persuaded that Ms S was under the spell of the scammer. She was desperate to get her money back and had already fallen victim to a recovery scam the year before. At the time, she had followed the scammer's instructions and misled her bank about the payments. I'm not convinced she would have acted any differently if Wise had gone beyond providing a written warning and carried out a 'human' intervention. Only weeks after the transaction in question was made, Ms S wasn't honest with her bank when it asked her about the third-party credits into her account. She later admitted that B had given her a cover story in case she was questioned about the credits. Despite having fallen already victim to a recovery scam once, Ms S didn't question why she had been instructed to lie to her account provider.

Given this, I think it's unlikely that Ms S would have been honest about the true purpose of the transaction had Wise questioned her about the £12,130 payment on 27 May 2022. Or, for that matter, any subsequent payments in dispute. That means I don't think Wise could reasonably have done anything more to prevent or limit Ms S's losses.

Ms S has questioned why only she is responsible for what happened, when Wise and her bank haven't fulfilled their obligations. I do acknowledge Ms S's frustrations. But causation is a critical determinative factor. It isn't enough that a payment service provider (like Wise or her bank) failed to intervene. I also need to be satisfied that an intervention would have more likely than not made a difference to her decision-making. As I've explained, I'm not persuaded that Wise questioning her about the payments would have made a difference to decision to go ahead with them.

I've also thought about whether Wise could have done more to recover the funds after it became aware of the situation, as in some circumstances the money can be recovered. I've only considered recovery of funds that were Ms S's to begin with, i.e., her loss. I haven't considered money she unwittingly allowed to pass through her accounts. Ms S sent her funds to a cryptocurrency exchange for conversion into cryptocurrency, which she then sent on to crypto wallets as instructed by B.

Wise would have only been able to request a recall of funds from the provider of the cryptocurrency exchange. But given Ms S has told us that she had already moved the funds from the exchange (by sending them to different wallets), there would have been nothing left for Wise to recover.

In summary, I know that Ms S will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a lot of money involved here. Despite my natural sympathy for the situation in which she finds herself, for the reasons given, it wouldn't be fair of me to hold Wise responsible for her loss.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 3 March 2024.

Gagandeep Singh
Ombudsman