

The complaint

Mr H complains that Wise Payments Limited (“Wise”) hasn’t protected him from losing money to a scam.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, Mr H has explained that in February 2023 he made four debit card payments totalling £14,000 from his Wise account for what he thought was a legitimate investment.

Mr H subsequently realised he’d been scammed and got in touch with Wise. Ultimately, Wise didn’t reimburse Mr H’s lost funds, and Mr H referred his complaint about Wise to us. As our Investigator couldn’t resolve the matter informally, the case has been passed to me for a decision.

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 to not uphold Mr H’s complaint for materially the same reasons as our Investigator. I’ll explain why.

First, let me say, I don’t doubt Mr H has been the victim of a scam here. He has my sympathy. Ultimately, however, Mr H has suffered his loss because of fraudsters, and this doesn’t automatically entitle him to a refund from Wise. It would only be fair for me to tell Wise to reimburse Mr H his loss (or part of it) if I thought Wise reasonably ought to have prevented the payments (or some of them) in the first place, or Wise unreasonably hindered recovery of the funds after the payments had been made; and if I was satisfied, overall, this was a fair and reasonable outcome.

Prevention

In broad terms, the starting position at law is that an Electronic Money Institution (“EMI”) such as Wise is expected to process payments and withdrawals that a customer authorises it to make, in accordance with The Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer’s account.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in February 2023 that Wise should:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

However, whilst I think Wise ought to have recognised that Mr H was at heightened risk of financial harm from fraud when making these payments, I don't think any proportionate intervention by Wise would have prevented Mr H's loss. I say this because Mr H had been in touch with the scammers since January 2023 and it's clear from the evidence of their WhatsApp messaging that Mr H was subject to social engineering and was coached extensively by the scammer. Sadly it's clear from this evidence that Mr H was totally under the spell of this scam and the scammer to the extent that I think he would have trusted the scammer over even the banks, police and EMLs involved. So I think even if Wise had intervened in these payments appropriately at the time, it's most likely Mr H would have reverted to the scammer on how to handle things so as to ensure the payments were made. So I don't think it would be fair to say Wise ought reasonably to be held responsible for the payments not being prevented.

Recovery

Because these were debit card payments, the only potential avenue for recovery of the payments, after they had been made, would have been via the chargeback scheme. However, Mr H made the payments from his Wise debit card to a crypto exchange (and not directly to the scammers). This means the merchant here, for chargeback purposes, would be the crypto exchange (and not the scammers). The crypto exchange legitimately provided the services intended however, and the subsequent transfer of the cryptocurrency onto the scammers would not give rise to a valid chargeback claim through Wise. So I don't think these payments were reasonably recoverable through Wise after they had been made.

I'm sorry Mr H was scammed and lost this money. However, I can't fairly tell Wise to reimburse him in circumstances where I'm not persuaded it reasonably ought to have been able to prevent the payments or to recover them.

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 November 2024.

Neil Bridge
Ombudsman