

The complaint

Miss L complains that Wise Payments Limited won't refund the money she lost to an investment scam.

Miss L is represented by a third party, but for ease of reading, I'll refer to all submissions as having come from Miss L alone in this decision.

What happened

Miss L was looking for an investment opportunity online and came across a company I'll call 'T'. She filled out an online webform and shortly after, she was contacted by one of T's representatives. They advised Miss L that they would teach her how to invest in cryptocurrency as she was an inexperienced investor.

Miss L was advised she'd make around £1,700 per week – which was dependent on the amount she invested. Miss L saw that the company had positive reviews and their website looked professional, so she decided to invest.

T's representative used 'AnyDesk' to access Miss L's laptop (with her permission) and guided her into opening an account with Wise. Once the account was set up, Miss L attempted to send payments to an international account in her name which were declined.

Miss L obtained two loans to help fund her investment and successfully sent four payments totalling £35,435 as part of the scam. These payments were sent from her Wise account between 8 September 2021 to 19 November 2021.

Miss L was able to successfully withdraw £1,250 from her investment on 1 October 2021. But she realised something was wrong when she hadn't heard anything for a while and was unable to withdraw anymore funds.

She asked Wise to help recover her money and complained that it didn't do enough to prevent her loss. Wise declined to refund Miss L's loss as it said it followed her instructions. It said it tried to recover the funds from the recipient bank account but received no response. Miss L referred her complaint to this service.

One of our Investigators looked into things, she felt that Wise should have considered Miss L's activity as unusual and warned her. She suggested that Wise refund the payments. Wise didn't agree and asked for an Ombudsman to review the complaint.

The complaint has therefore been passed to me for determination.

On 31 December 2023, I issued a provisional decision not upholding this complaint. In summary, I felt that Wise ought to have reasonably intervened in Miss L's initial payment but I didn't think an intervention would have made a difference. This was because I didn't think Miss L would have been forthcoming about the investment with T due to the inconsistency in her testimony.

Responses to my provisional decision

Wise replied explaining it didn't have anything further to add.

Miss L replied and didn't agree. She said in summary:

- She agreed the payments were concerning and that an intervention should have taken place. However, she didn't think it was fair to conclude an intervention wouldn't have made a difference on the basis that she was seemingly 'under the scammer's spell'.
- The first loan was taken out for the legitimate reason of repairing her home, however her insurer subsequently paid out for the repairs and she was able to use the loan to make payments towards the scam.
- The second loan was taken out on the instruction of the scammer. There was no option for the loan purpose which matched her situation so she didn't lie on her application.
- It is not uncommon for victims to continue to communicate with a scammer in attempts to recuperate their losses. She contacted T after realising she was scammed due to a different representative contacting her months after being ghosted. She was hoping she could get her money back however they just tried to get more money.

I provided additional time for Miss L to gather the evidence of her insurer carrying out the repairs to her home. I also highlighted that Miss L continued to communicate with the same individual from T after realising she was scammed, which differed to her testimony that she was communicating with someone new.

Miss L provided a copy of one of her loan agreements but did not provide evidence confirming her insurer carried out works on her home. Miss L provided no further comment on her communicating with the same individual after realising she'd been scammed.

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 don't uphold this complaint.

There's no general obligation for a firm to refund transactions which have taken place as a result of a scam. And in law, the starting position is that the account holder is responsible for transactions they've carried out themselves (and there's no dispute that Miss L carried out these transactions).

But I consider it to be a matter of good industry practice for Wise to be on the lookout for unusual and out of character transactions to (among other things) help protect its customers from financial harm from fraud.

The activity I've seen on Miss L's statement (along with information received from Wise), prior to the disputed payments are, unsurprisingly non-existent as this account was set up for the purposes of making the disputed payments. But whilst there isn't much activity, I've noted Miss L topped up her Wise account and attempted to send payments of £2,000 (5 September 2021) and £4,000 (7 September 2021) but she cancelled those payments. Given the substantial payment of £10,000 on 8 September 2021 that followed, I think the activity should have prompted Wise to make enquiries of Miss L.

But even though I think Wise should have intervened and asked further questions of Miss L (with a view of protecting her from financial harm from fraud), I don't think the intervention would have made a difference and I'll explain why.

I think it would have been reasonable for Wise to probe Miss L about the purpose of the payment which could have led it to providing a tailored warning. However, as Miss L and Wise explain, there were no distinguishable features about the payment or the payments that followed to indicate to Wise what they were for. The payments were international payments to an account that appeared to be in Miss L's name. So I don't think Wise would have reasonably known that the payments were being made towards an investment with T. Any probing questions from it that ought to have reasonably led to a tailored warning would have been reliant on Miss L volunteering information confirming that they were being made towards her T investment.

However, Miss L hasn't been forthcoming in her dealings with this service. I asked Miss L for further information around the loan applications used to fund the investment, along with questions about her dealings with T. Miss L explained that she had taken out the initial loan to fund building works to her home, which she quickly found out were covered by her home insurance policy. She said her insurer carried out the works, so she no longer needed the loan funds for that purpose and instead funded the investment. I provided Miss L additional time to provide evidence from her insurer to confirm this. Miss L was unable to and so I don't find her testimony about the genuine reason for her initial loan application to be persuasive. I accept that as part of scams like this, scammers can persuade consumers into taking out lending to fund the alleged investment opportunity. This is why I accept Miss L's reasoning for applying for the second loan – which was largely due to the scammers suggestion that she increase her profits. But Miss L described the circumstances around the initial loan and couldn't provide information to evidence this that I think ought to have been accessible to her. I think she ought to have been able to obtain an email or communication from her insurer to confirm that they carried out the works she described to her home. I provided a substantial amount of time for Miss L to gather this evidence but she was unable to, which I find unusual.

In addition to this, Miss L explained that she continued to communicate with the scammers after realising she fell victim to a scam because she was communicating with someone new in order to try to recover her payments. Again, I accept that Miss L was desperate to recover her funds and I can appreciate why she may have communicated with the scammers again. However, Miss L wasn't communicating with someone new in the way she described, the evidence I've seen shows me that she continued to communicate with the same individual. I therefore find it difficult to rely on Miss L's testimony.

Due to the inconsistency in Miss L's testimony, I cannot fairly or reasonably make a finding that had Wise intervened in her payments, she'd have been forthcoming about the purpose of her payments to the extent that Wise would have identified that she was investing with T and could have provided a tailored warning that would have prevented some or all of her loss. I'm simply not persuaded this would have been the case and because of this, even though I think Wise failed to intervene, I don't think this failure caused Miss L's loss.

In other words, I am satisfied that an intervention from Wise probably would have made no difference to Miss L. Any failings by Wise were not the dominant, effective cause of her losses; they were just part of the background history or occasion that led up to them.

But I want to be clear that I accept Miss L fell victim to a scam and she is not to blame for this, the cruel scammers are. But for the reasons I've explained, I simply can't hold Wise responsible for failing to prevent her loss.

My final decision

My final decision is, despite my natural sympathies for Miss L's loss, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 30 March 2024.

Dolores Njemanze
Ombudsman