

The complaint

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

What happened

Mrs P was called regarding an investment opportunity with a company I'll call 'C'. She agreed to invest a small amount initially and it seemed reasonable and low risk, so she decided to invest more.

Mrs P says she was kept up to date on the investment's performance through calls and WhatsApp messages. After some time, Mrs P said she tried to withdraw her investment but was told she needed to pay fees and C began to make excuses explaining why she couldn't withdraw.

Mrs P was contacted by another company I'll call 'S' who suggested they were aware of her investment with C and could help recover her money. She agreed to proceed with S and paid their fees but their promises didn't materialise.

Mrs P sent eight payments from her Wise account in relation to the scams. She sent four international transfers from 21 January 2023 to 8 February 2023 totalling €20,133 and four card payments from 16 March 2023 to 17 March 2023 totalling £19,990.

Mrs P complained to Wise about her transfer payments and all the card payments made on her Wise account.

Wise issued its final response explaining it displayed scam warnings on three of Mrs P's transfers. It explained it had sent recall requests in relation to the transfers but was yet to hear from the beneficiary bank. Overall, it said it would not be refunding any of Mrs P's payments.

Unhappy with Wise's response, Mrs P referred her complaint to this service.

One of our Investigators looked into things. He felt Wise should have intervened on two occasions. But he didn't think the interventions would have made a difference as Mrs P confirmed she was given a cover story by C and S. He also noted that in another complaint referred to this service against a different payment service provider concerning the S scam, there was an intervention and Mrs P wasn't truthful in her responses. He therefore wasn't persuaded a meaningful warning from Wise would have made a difference.

Mrs P didn't agree and asked for an Ombudsman to review the complaint.

The complaint has therefore been passed to me for determination.

On 2 April 2024, I issued a provisional upholding this complaint in part. For completeness, I repeat my provisional findings below:

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 think Wise should return any of Mrs P's disputed payments but I do think it should pay some compensation and I'll explain why.

Banks and other Payment Services Providers ("PSPs") have reasonable expectations to protect customers against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering (see below). But when simply executing authorised payments, they do not have to protect customers against the risk of bad bargains or give investment advice — and the FCA has confirmed that a fraud warning would not constitute unauthorised investment advice.

Neither party disputes that Mrs P was the victim of a scam. I've noted the FCA published a warning about C on 29 March 2023. And from Mrs P's explanation of her dealings with C and S, I think it's most likely that she fell victim to an investment and subsequent recovery scam. Having concluded that these were scams rather than just genuine investments that went wrong. I must now go on to consider four more issues in order to determine the outcome of the complaint:

- 1. Should Wise have fairly and reasonably made further enquiries before it processed Mrs P's payments?*
- 2. If so, would Wise's further enquiries have made a difference and prevented or reduced the loss?*
- 3. And if so, should Mrs P bear some responsibility for the loss such that it would be fair and reasonable to reduce compensation proportionately.*
- 4. Did Wise do enough to try to recover Mrs P's payments?*

Should Wise have fairly and reasonably have made further enquiries before it processed Mrs P's payments?

The starting point under the relevant regulations (in this case, the Payment Services Regulations 2017) and the terms of Mrs P's account is that she is responsible for the payments she authorised herself.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider to have 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 its customers were at risk of fraud (amongst 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; and*
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made 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.*
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers).*

I've noted that Wise displayed online warnings for Mrs P's first three transfer payments. Mrs P was asked to select the purpose of each transaction. She stated she was 'paying for goods and services'. Mrs P was then provided with a warning proportionate to scams involving goods and services including questioning whether she was purchasing from legitimate websites and whether she trusted the company she was purchasing from. I think a written warning would have been appropriate at the point of the transfer payment of €7,248 on 26 January 2023. This was a large payment and I think Wise should have reasonably provided a warning broadly covering scam risks.

In relation to the first and third transfers, these were for payments of €1,535 on 21 January 2023 and €2,378 on 27 January 2023 which were relatively low value but nevertheless Mrs P was asked for the purpose of her payments and was provided with a warning covering scams involving the purchase of goods or services. I think this was reasonable.

Wise noted that Mrs P was given an option to select 'making an investment' but chose paying for goods and services instead and was shown a warning broadly covering common scams involving the purchase of goods or services. I think this warning was proportionate to the risk identified by Wise at the time, so although our Investigator suggested a human intervention would have been appropriate, I don't think this was required. There were no identifiable features about the payments other than they were international payments but Wise probed nevertheless. Based on Mrs P's answer that she was paying for goods and services, I think the written warning displayed by Wise was sufficient.

The fourth transfer payment of €8,972 was paid on 8 February 2023. I don't think this payment would have appeared all that unusual to Wise based on the previous transactions. It was also an international transfer and not too dissimilar from the value of the second transfer payment. I don't think Wise would have reasonably suspected this payment was unusual and so I don't think it missed an opportunity to intervene.

Wise confirmed it didn't intervene in any of the card payments as they were authorised via 3DS. But I think the first payment on 16 March 2023 should have reasonably warranted an intervention. This was a payment of £6,990 and while Mrs P had made payments of similar amounts and more before, this was the first payment Mrs P had made to a known crypto exchange. I think Wise ought to have reasonably considered it as high risk given the growing landscape of crypto fraud.

I'm satisfied Wise reasonably intervened at the first point I think it should have but it didn't intervene at the second point I think it reasonably should have, this was a missed opportunity for Wise to have meaningfully intervened.

Would Wise's further enquiries have made a difference and prevented or reduced the loss? I've thought very carefully about whether reasonable enquiries would have uncovered the scam at the point of Mrs P's payment of £6,990 on 16 March 2023. I'm not persuaded it would have.

I say this because the other PSP Mrs P used to make payments as part of the scam did intervene on 16 March 2023. And Mrs P discussed her payments with this PSP further on 17 March 2023. This particular PSP asked Mrs P whether she was called to create an account with it to make the transfer, she said no (which wasn't true). Mrs P was asked whether she was using any screen sharing application e.g. AnyDesk, Mrs P said no (this wasn't true as she was using screen sharing software with the scammers). Mrs P was asked whether she was being pressured to act quickly at risk of missing out on an investment opportunity and Mrs P said; 'No I am doing everything myself, without any third part and the reason for my rush is the price of the bitcoin going up every day, so please show me responsibility and do what I ask you ASAP'. Mrs P went on to say 'I've been into stocks market before so I know

how it works and always I am making decision after thinking much about it so let me do my stuff and unlock my account please'. Mrs P went onto explain that she'd done her research and her decision to invest was one she made with her husband.

In my judgement, I don't think any probing from Wise could have reasonably uncovered the scam based on the other PSPs intervention. I don't think Mrs P would have likely been truthful about what she was doing. I think she was so bought into the scam, she opted to follow the scammers instructions and follow a cover story.

Because I don't think Wise could have prevented Mrs P's losses, it is unnecessary for me to go on to consider whether Mrs P herself was partly to blame for what happened (contributory negligence). Indeed, I have already concluded that she was responsible for her own investment decisions, and that such choices were the proximate cause of her losses. I do appreciate this decision will be disappointing for Mrs P, particularly as she's lost a substantial sum of money to scammers. But for the reasons I've explained, I can't fairly or reasonably hold Wise' responsible for her loss.

Did Wise do enough to try to recover Mrs P's payments?

I'm satisfied Mrs P's only recovery options in relation to her card payments would have been via the chargeback scheme. But the chargeback dispute rules require some specific evidence before a chargeback can be processed. Here, Mrs P didn't pay the scammers directly, she sent the payments to her own crypto exchange accounts and purchased crypto. The service was therefore provided by the beneficiaries and Mrs P would have had no recourse to recover these payments through the relevant chargeback scheme.

In relation to the transfer payments, I've noted that Wise delayed in contacting the recipient bank in relation to the first three transfers. I've noted it contacted the recipient bank in June rather than April (at the point Mrs P raised her fraud claim). The recipient bank confirmed that there were no funds remaining in the account shortly after Wise sent its correspondence. Although this wasn't prompt, Mrs P didn't raise her fraud claim until April 2023 and she'd already sent her transfer payments in January and February 2023, I think it's likely the payments would have been quickly removed from the beneficiary account as this is what commonly happens when payments are made as the result of a scam. So even if Wise had acted sooner, I don't think it would have made a material difference to the outcome of Mrs P's money being unrecoverable.

In relation to the final transfer payment, I've not seen any evidence that Wise attempted to recall this payment. As no funds remained in the beneficiary account in relation to the first three transfer payments (which I think were likely removed quickly) and this payment was made in relation to the same scam, I think it's likely no funds would have remained had Wise attempted to recall it. The payment was also reported two months after it was made which would have been a significant amount of time for the beneficiary to remove the funds. But I think Wise's failure to attempt to recover this payment, along with its delays in recovering the first three transfer payments would have had an impact on Mrs P. As it was an international payment, there was no guarantee the beneficiary bank would have responded but I still think Wise should have made a reasonable effort to recover this payment. I see no reasonable reason for Wise's delays in relation to the first three transfer payments and its failure to try to recover Mrs P's final transfer payment.

I think the worry of not knowing whether Wise could have recovered all of the disputed transfer payments would have had an impact on Mrs P. For this, I think Wise should pay £200 compensation for the distress and inconvenience Mrs P would have been caused.

Responses to my provisional decision

Wise replied accepting the provisional decision, it also confirmed it had nothing further to add.

Mrs P replied and confirmed she didn't wish to be bound by the decision. She provided no additional comment.

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.

As neither party had anything further to add, I see no reason to depart from my provisional decision (which forms part of this final decision).

My final decision

My final decision is, I uphold this complaint in part and Wise Payments Limited should pay Mrs P £200 compensation for the distress and inconvenience caused to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 10 May 2024.

Dolores Njemanze
Ombudsman