

The complaint

Mr B complains that Wise Payments Limited (“Wise”) won’t refund the money he lost to a scam.

What happened

The details of this complaint are well known to both parties, so I won’t repeat everything again here. In brief, Mr B says he fell for two scams. The first was with what he thought was a trading firm that I will call F.

Mr B registered his interest in F and was told that F would trade on his behalf. In this scam Mr B sent funds from an account he held with a different provider, that I will call D, to a crypto exchange. Mr B says the scammer then sent the funds from his crypto wallet without his consent.

Mr B reported that he had been scammed to D on 26 March 2023. Around that time, Mr B says he was approached by a different scammer, that I will call C. Mr B says that this scammer told him that they were a representative of the Financial Conduct Authority (“FCA”) and that he would have to pay cryptocurrency to a different wallet to release the funds that he had lost from the first scam, to prove that he was not a money launderer. Mr B says he made the following payments from his Wise account to a crypto exchange from which the funds went to the scammer.

| Transaction Number | Date | Amount | Type of payment |
|--------------------|---------------|--------|-----------------|
| 1 | 30 March 2022 | £9,469 | Debit Card |
| 2 | 31 March 2022 | £4,839 | Debit Card |

Mr B has said that C helped him make the transactions using remote access software. Once the payments were made and he did not receive a refund from the first scam, he realised he had been scammed again.

I issued a provisional decision on 22 August 2022 in which I said the following:

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.”

In this instance, I am not satisfied that Mr B has demonstrated that he has actually been scammed in relation to the above payments from his Wise account or what this apparent scam was. Mr B has said he was approached by a representative of the FCA and made the payments to C to recover the funds he lost to F. But the only evidence of this is dated June 2023 - which is after he'd made the above payments. Also, during calls with D around this time he said he was making the transfers to Wise and to the second crypto exchange based on his own research with no third-party involvement this time around. He also seems to have moved funds from his account with D to the second crypto exchange and back again on a number of occasions before finally sending funds to the second crypto exchange via Wise.

This does not fit with the second scam that Mr B said he was a victim of. The transactions do not appear to be typical transactions that you may expect to see with a recovery scam. Given the lack of evidence provided, the inconsistencies in the available evidence and the nature and timing of the transactions, it does give me cause for concern about the legitimacy of Mr B's claims that the two payments were involved in a recovery scam.

Also, during a call in which Mr B reported the first scam, he said that he had been told he needed to pay a fee to release his funds with F to demonstrate that he was not money laundering and that this turned out not to be true. This was four days before he sent funds to the second crypto exchange for what he says was the exact same reason i.e. to prove he was not money laundering in order to allow C to retrieve his funds from F. It seems unlikely that he would realise that sending funds to allow funds to be released was a scam and then four days later do the exact same thing again.

I also note that Mr B has not provided any evidence that the funds were then sent on from the second crypto exchange to a third party which means this loss has not been demonstrated.

But even if I were satisfied that Mr B was scammed a second time and suffered a financial loss, I don't think that Wise could have stopped the scam. I think this having considered whether Wise should have done more to prevent Mr B from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character for that account holder.

Mr B's Wise account had not really been used before the scam. So Wise did not have payment history to compare against the scam transactions to determine what was typical account usage. This means that it could not identify if the payments were unusual. Given this, I think that a proportional intervention given when the scam took place, the size of the first transaction and where the funds were going to would be a general scam warning.

I don't think that such a warning would have stopped Mr B though, especially as he was being helped with the transaction by the scammer. Mr B was aware of the risks of crypto currency scams and their features as he had already been scammed. Also even if the apparent second scam was a recovery scam, rather than a similar crypto investment scam, I don't think a general warning would have stopped Mr B, as he was already aware of the features of recovery scams. This is because he had described in the call with D prior to this scam that he was told he would need to pay a fee to release his funds with F to prove he was not a money launderer and that this was a scam. So he was already aware of the risks of sending funds to 'release' money he had lost prior to this. So I don't think being told that either of the above scenarios could be a scam would have stopped him, as he already knew this and had accepted the risk by choosing to send the funds.

There is an argument that payment 2 should have prompted a further intervention from Wise. But had it asked Mr B for more details about the payment I don't think that the scam would have been uncovered. This is demonstrated by Mr B not being forthcoming in his interactions with D during the alleged second scam.

When asked during calls with D why he was sending funds to Wise, Mr B confirmed that he was not doing this on advice of a third party, he had done his own research and nobody else was involved. This is despite Mr B saying he was making the payments to recover funds he had lost with the help of the FCA. If this is what he thought he was actually doing, it is unclear why he felt the need to obfuscate the actual purpose of the payment.

But regardless of this, it suggests that had Wise intervened more than it did, it is unlikely that it would have discovered the true purpose of the payments or that Mr B was being scammed. Given that Wise was not aware that Mr B had recently been scammed I think that it would have taken the answers that Mr B gave at face value and the scam would not have been stopped. This is unlike D, who knew that Mr B had recently been scammed.

So overall, I think that Wise should have intervened and provided warnings. But I don't think that this would have stopped the scam. It follows then that I currently don't think that Wise should refund any of these transactions.

I have considered whether the payments in question could have been recovered by other means. But given that timescales involved, the method of the payments used and that Wise is not a signatory of the Contingent Reimbursement Model, I don't think that the funds could be recovered.

I appreciate this will likely come as a disappointment to Mr B, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded Wise can fairly or reasonably be held liable – even partially - for his loss.”

Wise did not add any further points in response to my provisional decision. Mr B's representative responded and in summary, made the following points.

- Wise should have intervened more than it did and ask open and probing questions this would have stopped the scam.
- Mr B has already explained why he cannot provide evidence of the scam or demonstrate his financial loss and I should consider Mr B's testimony in absence of this.

I have already addressed these points in my original provisional decision. But I will readdress them in brief here.

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.

I agree that Wise should have intervened more than it did but as stated above, I don't think that Mr B would have been forthcoming with what he was doing. Despite this, had Wise given Mr B a warning that what he was doing had the features of a scam, I don't think that it would have stopped the scam, again for the reasons I have outlined above.

In relation to Mr B not providing evidence of this scam or demonstrating he suffered an actual financial loss, I would like to reassure Mr B that I have considered his testimony about what occurred. That said, I have highlighted inconsistencies in this testimony in my provisional decision. Also, in any event, even if I was satisfied that what Mr B said about this scam was entirely accurate, I don't think that Wise could have stopped the scam due to the reasons set out above.

So overall it follows that I do not uphold this complaint.

My final decision

My final decision is that for the reasons set out above and in my provisional decision that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 October 2024.

Charlie Newton
Ombudsman