

Complaint

Mr G is unhappy that Wise Payments Limited didn't reimburse him after he told it he'd fallen victim to a scam.

Background

In 2023, Mr G opened up an account with a cryptocurrency platform and invested £250. He didn't continue to invest in cryptocurrency because he wasn't confident in what he was doing. He left the £250 where it was and didn't make any further payments.

Several months later, he was contacted by someone who claimed to represent a law firm. They told Mr G that a third-party had gained access to his account and was investing using his initial payment. He was told that the value of the funds was now £32,000. They explained to Mr G that they could help him with recovering the total funds in the account, but that this would require him to make further payments. Unfortunately, he hadn't been contacted by a legitimate law firm, but a fraudster.

The fraudster asked him to download remote access software so that they could see his computer screen. They talked him through the process of making these additional payments initially from his bank account into his newly created Wise account. On 9 May 2023, he made the following card payments from his Wise account to two well-known cryptocurrency platforms:

- £1,302.83
- £1,405.97
- £1,790.00

Interspersed amongst these payments there were three payments that failed and were refunded back to Mr G's account. As I understand it, this wasn't a result of any action taken by Wise.

The fraudsters gave Mr G detailed guidance on what to say if the payments were questioned, what to tell Wise and his other bank his reasons were for opening a new account and to tell Wise that he hadn't been asked to download remote access software. According to Wise's records, Mr G said that he was opening an account for "*buying goods and services abroad*".

Once Mr G realised he'd fallen victim to a scam, he notified Wise. It didn't agree to reimburse him. He wasn't happy with that and so he referred his complaint to this service. It was looked at by an Investigator who upheld it in part. Wise disagreed with the Investigator's opinion and so the complaint has been passed to me to consider.

Findings

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

I issued a provisional decision on this complaint on 1 August 2024. I wrote:

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

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account.

However, that isn't the end of the story. Good industry practice required that Wise be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.

In this case, there were factors that ought to have given Wise cause for concern. These payments were made in relatively quick succession and occurred alongside payments that were rejected by the merchant and card scheme. They were made to well-known cryptocurrency platforms with the associated fraud risk.

The Investigator thought that Wise ought to have taken some steps to protect Mr G at the point he asked it to make the second payment. I'm inclined to agree with that conclusion. The risk that Mr G might be about to fall victim to a scam was sufficiently clear that Wise ought to have asked him some questions about the payment and used that information to formulate a tailored warning based on the type of scam Mr G had been targeted by. However, this raises a problem. In view of the extensive guidance the fraudsters gave him, I think it's unlikely that he would've answered questions from Wise accurately. Wise would've found it difficult to produce a warning that was appropriately tailored to the specific risks of this scam.

Nonetheless, it knew that the payment destination was a cryptocurrency platform and it should've been mindful of the increasing prevalence of scams involving cryptocurrency. I think it ought to have displayed a warning that focused on the risks posed by such scams. Unfortunately, I don't think that such a warning would've resonated with Mr G. This was a slightly less common set of circumstances. He hadn't been targeted by an investment scam – i.e., he wasn't being persuaded to invest his money in something – he was being persuaded to pay fees associated with what he believed was the recovery of money already in his trading account.

I don't think any warning displayed by Wise would (or could reasonably have been expected to) have focused on the specifics of that risk and so it wouldn't have been particularly impactful. I don't say any of this to downplay or diminish the fact that Mr G has fallen victim to a cruel and cynical scam. I have a great deal of sympathy for him and the position he's found himself in. However, my role is limited to looking at the actions and inactions of Wise and I'm satisfied that, while it should've acted differently here, it wasn't the effective cause of Mr G's losses and so it doesn't need to refund him now.

Wise didn't respond to the provisional decision. Mr G responded to say that he disagreed with my conclusions. He pointed out that I'd incorrectly stated that he needed to pay fees in order to access his funds. Instead, he was asked to prove that he could carry out trades of cryptocurrency. From the way it's been explained, I understand that this was an administrative requirement that Mr G needed to carry out so that his funds could be

released. Mr G said that Wise were a “*soft touch*” – and that the fraudsters knew how to bypass its security effortlessly. In view of that, he thinks it ought to be at least partially responsible for the money he lost. He also said that my conclusion that a relevant warning wouldn’t have resonated with him is harsh.

I’ve reconsidered all the evidence in the light of Mr G’s comments. Unfortunately, I’m not convinced that I can come to a different outcome here. I accept that I misdescribed the steps Mr G was asked to take to secure his funds. He was not explicitly asked to pay fees to secure his funds. Nonetheless, funding his account with a cryptocurrency exchange was a necessary step in carrying out the fraudster’s request.

I don’t make any general findings about the efficacy of Wise’s security measures. That’s not my role. However, I agree with him that it should’ve done more than it did in this case. As I explained in my provisional findings, it ought to have recognised that there was an enhanced risk of fraud associated with these payments and taken some measures to protect Mr G.

A commonly occurring scam involving cryptocurrency is one in which a customer is tricked into thinking they’re putting their funds under the control of an investment manager. They believe that person will manage their funds and earn a generous return on their behalf. Unfortunately, the investment in question isn’t a legitimate one. Wise ought to have warned him that he might be about to fall victim to a scam like that. In my provisional findings, I said such a warning wouldn’t have resonated with Mr G. Mr G found my conclusion to be harsh, but it wasn’t my intention to make a judgement about his actions here. I don’t think any person in Mr G’s scenario would’ve found a warning about investment scams to be relevant to them. For that reason, it’s hard to see how it would’ve prevented them from going ahead with the payments.

I agree with Mr G that Wise ought to have done things differently here. However, it’s not enough for me to find that it did something wrong – I also need to be persuaded that its actions or inactions were the cause of his losses. For the reasons I’ve explained, I don’t think I can fairly and reasonably come to such a conclusion.

Final decision

For the reasons I’ve set out above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G to accept or reject my decision before 4 October 2024.

James Kimmitt
Ombudsman