

The complaint

Mr N complains that Wise Payments Limited trading as Wise (Wise) won't refund money he lost in a job scam.

What happened

Mr N was self-employed and short of work and money. He was looking for other work and had signed up to some recruitment agencies. He got a call from someone claiming to be from a well known agency who introduced him to a job opportunity with a firm which claimed to be dealing with 'app manufacturing'. His role was to boost the appeal of apps in order to make them look appealing and reach a wider audience. He was asked to simulate purchases and then provide five-star reviews to help marketing and boost sales. To do that he had to pay in his own money to simulate sales. He was told he could earn £7,000 per month if he completed three sets of 35 tasks each day.

He was told he needed to send the money to a crypto currency exchange and from there to a wallet address. He was told he would get payments of his commission together with a refund of the money he'd paid. He borrowed £19,000 on a loan from his other bank (which I call bank Y) to fund the payments. The payments were made direct to crypto exchanges.

Mr N paid £12,750 from his account at bank Y to three crypto exchanges.

The payments from the Wise account were:

Date	Payment	Amount
6 August 2023	Debit card to crypto exchange	£1,000
6 August 2023	Debit card to crypto exchange	£5,000
7 August 2023	Debit card to crypto exchange	£4,040
7 August 2023	Debit card to crypto exchange	£3,500
Total		£13,540

As things progressed, he was told he needed to pay in more money to compete further tasks. And when he wanted to withdraw money, he was told he needed to upgrade to higher value tasks with more demanding targets. Then he realised he'd been scammed.

Mr N brought a complaint to Wise. He says Wise should've done more to protect him. The payments were unusual for him to make and Wise didn't intervene or warn him. He says Wise should refund the money he's lost plus interest at 8% per annum.

What Wise said:

Wise didn't refund any money and said:

- The payments weren't out of character as Mr N had made 19 payments to the crypto exchange before and up to August 2023.
- The payments were properly authorised by Mr N and were therefore legitimate.
- The funds were lost when they were moved from the crypto exchange and not when they left Wise.

Our investigation so far:

Mr N didn't agree and brought his complaint to us. Our investigator didn't uphold it. He said:

- The payment of £5,000 on 6 August 2023 was sufficiently different the previous ones, which were low value – from £100 to £300.
- So, Wise should've intervened from then on.
- But he said even if Wise had intervened, they would not have stopped the payments – because Mr N hadn't disclosed the reasons for the payments to the other bank, and therefore would not have been truthful with Wise either.

Mr N didn't agree. Through his advisors, he said it wasn't fair to base the outcome on a poor-quality intervention by the other bank. He asked that an ombudsman look at his complaint, and so it has come to me.

I reached a provisional decision which upheld Mr N's complaint:

I'm sorry to hear that Mr N has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr N didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators 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 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 banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make 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.

I need to decide whether Wise acted fairly and reasonably in its dealings with Mr N when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because Wise hasn't signed up to the Code. And in any case, it

applies to faster payments made to another UK beneficiary– and in this case, the payments were made to Mr N's own account with the crypto exchange in his name.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr N normally used his account – then we would expect Wise to have intervened and spoken to him about them.

I accept that Mr N made 17 payments to the same crypto exchange before the scam payments and I considered this point. But they were of low value (between £100 and £300). And 13 were made in November 2022 – nine months before the scam payments in question. The other four were made in January 2023 and February 2023 – again, some months before.

I don't consider the firm needed to intervene in the first payment of £1,000 – as it was for a low value.

So, even accepting that Electronic Money Institutes (EMIs) such as Wise are typically used for larger payments, I think it's reasonable to say that the payment from that for £5,000 on 6 August 2023 was sufficiently out of character to have expected Wise to have intervened. But the firm didn't, nor did it evidence that any tailored scam warnings were sent to Mr N.

I'm also mindful that we expect that from 1 January 2023, firms ought to recognise that cryptocurrency related transactions carry an elevated risk of the likelihood of the transaction being related to a fraud or scam. This is because, by this time many leading firms had appreciated this risk and placed blocks or restrictions on cryptocurrency related transactions, and there had been widespread coverage in the media about the increase in losses to cryptocurrency scams.

Such job task scams were (and are) common – Wise was the expert in such matters and in the interventions, we would expect a number of open and probing questions such as:

- Why are you making the payment?
- And where are you transferring the money to?
- Who to?
- For what purpose?
- How did you hear about the scheme?
- How were you contacted about it?
- Where did the money come from that you're sending?
- Where is the money going to from your crypto wallet? Why?
- What do you know about bitcoin investing?
- Have you made bitcoin investments before?

But Wise didn't intervene. Our investigator didn't uphold the complaint because he said Mr N wasn't truthful when speaking to bank Y. But my provisional decision for that complaint says that I don't think bank Y went far enough and should have questioned Mr N much more deeply about what he was doing. I didn't consider he was untruthful. And I therefore found that bank Y should also refund money to Mr N.

So in this case, I don't consider bank Y went far enough and it follows that Mr N's complaint against Wise should be provisionally upheld.

And therefore, I think Wise should be liable to refund the last three payments totalling £12,540 in the first instance.

Contributory Negligence:

But that's not the end of the story here. I also considered whether Mr N could've done more to protect himself and whether he should therefore reasonably share some of his losses. And I think he should. In thinking about this - we apply a test of what we would expect a reasonable person to do in the circumstances. We don't (for example) apply a test of what we would expect a finance professional to do:

- He took a call from someone out of the blue posing as a recruitment company – this was understandable as he had signed up to various recruiting firms looking for work.
- But he accepted the 'job' without any interview, or contract.
- He made payment to an employer for who he was working – this was a strange thing to do.
- And the payments were in crypto currency – which was odd.
- He didn't carry out sufficient research but relied on a link provided by the 'recruitment firm'.

So, I think it's reasonable that Mr N is responsible for some of his losses. Two respondent banks were involved and in cases such as that, our service applies a deduction of 33% for contributory negligence (as compared to 50% on most other cases).

Mr N has brought a complaint against bank Y – from which bank he made payments of £21,850 to either his crypto wallet or to Wise. But I determined that Mr N's losses as paid to the crypto wallet (from either Wise or bank Y) are:

Bank Y	Payments direct to crypto exchange	£12,750
Wise	Payments direct to crypto exchange	£13,540
Mr N's payments to crypto exchange		£26,290

The payments out of Wise were funded by transfers from bank Y of £9,100, all of which should reasonably have been prevented by bank Y.

Payments that couldn't have been reasonably stopped – where either Wise or bank Y could not have been expected to intervene. I worked these out to be:

Bank Y	Payments 1-6	£6,750
Wise	First payment	£1,000
Payments not refundable		£7,750

So, in total, Mr N should receive a refund of £18,540 (£26,290 less £7,750), less a deduction for contributory negligence of 33% - so a refund of £12,236. In all the circumstances here, I think it is reasonable that Wise and bank Y share this equally - £6,118.20 each.

Recovery:

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Wise took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money.

And here, the funds went from the bank account to a crypto currency merchant and the loss occurred when crypto was then forwarded to the scammers. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover.

Responses to the provisional decision:

Mr N accepted the findings, but Wise didn't. The firm said (in summary):

- The firm didn't intervene as the percentage of fraudulent payments to the crypto exchange for payments under £5,000 had gone down to less than 3% (by value).
- On 6 August 2023, Mr N increased his daily payment limit to £10,000 after a payment for £3,000 was declined due to the previous limit being £1,000. This showed he was determined to go ahead with the payments.
- If Wise had intervened, it was unlikely that any of Mr N's answers to their questions would've been any different to those given to bank Y. It's unlikely that any intervention would've prevented the scam.
- Wise's intervention would have been to send Mr N an email and a temporary freeze on his account pending his response.
- Mr N made 22 payments to the crypto exchange, of which four were related to the scam. The four payments were not out of character, therefore.
- While Wise is committed to protecting its customers from fraud and scams, it isn't a traditional bank and operates under a different regulatory framework.
- Mr N's losses were incurred when he transferred the funds from the crypto exchange, not when he made the payments from Wise.

I now need to consider these comments and make a final 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.

I am grateful for the thoughtful and considered response from Wise. I've reviewed Mr N's complaint again (and that involving bank Y – and the call between that bank and Mr N). This is a finely balanced decision with several arguments for and against, but on balance I am still upholding this complaint.

On Wise's points:

- The firm's' first point is that such payments are low risk and therefore they didn't intervene – this is Wise's policy call and doesn't mean they should not have intervened in this case. And as Wise will be aware, we look at each case on its individual merits.
- Wise argue that because Mr N increased his daily limit, he was determined to go ahead. While I appreciate this argument – of course, we will never know if Wise could've broken the spell, as the firm didn't intervene. Of itself, I don't think it is reasonable to say that an increase in the limit meant that any intervention would've been unsuccessful.

- Wise argue that they couldn't have broken the scam if they'd contacted Mr N. But of course, we will never know – because the firm didn't do so. With more probing and challenging questions put to Mr N (which wasn't the case with bank Y), there is every chance the scam could've been prevented. Indeed, it could be argued that a second bank's intervention would have had more impact.
- I am also mindful that Wise didn't send Mr N any sort of tailored warning at all.
- On Wise's point about the payments not being out character – as I explained in my provisional decision, the other payments were for far lower values and were sufficiently historic. My view hasn't changed.
- I don't agree that Wise has any less of a duty to protect customers from fraud and scams than any other bank or payments business. And this is particularly the case under the Consumer Duty (with effect from 31 July 2023).
- I'm also not persuaded that the fact the payments were going to Mr N's own account and so appeared to be going somewhere safe and within his control (i.e. his crypto wallet) should have satisfied Wise that he wasn't at risk of harm. This is because by January 2019, firms like Wise had, or ought to have had, a good enough understanding of how these scams work – including that a customer often moves money to an account in their own name before moving it on again to the scammer - to have been able to identify the risk of harm from fraud.

Therefore, on the balance of evidence, my final decision is unchanged from the provisional decision.

And so, Wise must do what the provisional decision set out.

My final decision

I uphold this complaint. And Wise Payments Limited must:

- Refund £6,118.20 plus interest at 8% per annum simple from the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 4 February 2025.

Martin Lord
Ombudsman