

## **The complaint**

Mr S, via a representative, has complained that UAB ZEN.COM ("Zen") failed to refund the money he lost as part of an investment scam.

## **What happened**

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mr S came across an advert on a social media platform about a company that purported to be a crypto investment firm that I will call B.

Mr S then made over 25 payments from his Zen account to B, these went via crypto exchanges and directly to someone's card. These payments were a mixture of card payments, transfers, direct crypto transfers and transfers to card. These transactions took place in August and September 2023 and totalled around £40,000.

Mr S realised he had been scammed when he was unable to withdraw his profits and was told he would need to pay additional fees to do so. Mr S asked Zen to refund these payments, as he believes Zen should have done more to prevent him from being scammed in the first place. Zen did not agree with this.

One of our investigators looked into this matter and he thought that any intervention from Zen would not have stopped the scam. He said this because he believed that Mr S was being under the spell of the scammer and was not providing accurate answers to questions asked by both Zen and his other account provider. He therefore did not uphold this complaint.

Mr S did not agree with this and therefore his complaint has been passed to me to issue a 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, on what I consider is more likely to have (or would have) happened, in light of the available evidence and the wider circumstances.

In broad terms, the starting position is that Zen is expected to process payments and withdrawals that a customer authorises it to make. This should be in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

However, taking into account relevant law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable that Zen should:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice Zen sometimes does); and
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

Zen did intervene and asked questions about the transactions that Mr S was making. From what I can see about these interventions, I don't think that the questions asked about the payments were sufficient in the circumstances and I think Zen should have intervened earlier than it did. That said, I don't think that this would have stopped the scam. I say this for the following reasons.

Mr S seems to have been aware that, if he gave accurate answers as to what he was doing, his payments might be stopped and he asks the scammer how to answer questions about the payments. He then provides those answers to Zen. For example, he said he had not been approached about an investment opportunity and that he had not installed remote access software, both of which were not accurate answers. I also note that he gave misleading answers to his other account provider.

Given that Zen was only required to take proportionate steps to try and protect Mr S from financial harm. I'm not persuaded he would've shared anything concerning with Zen had it questioned him more about what he was doing. So overall I think that Zen should have intervened more than it did. But I do not think that this would have likely stopped or uncovered the scam.

I've also thought about whether Zen could have done more to recover the funds after Mr S reported the fraud.

Zen are under no obligation to refund the money under the Contingent Reimbursement Model (CRM) Code. This is because Zen are not signatories of the code. Given the timescales involved until the scam was reported, I don't think that the funds could have been recovered, though I do note that Zen did attempt to recover the two transfers direct to a person's card but was unsuccessful. In relation to the card payments, I don't think that a chargeback could have been successful as the payments were essentially a means to send funds to the crypto exchange and that is what happened. So, there would be no grounds to challenge the payments. And finally, the direct crypto transfers to an external wallet cannot be recovered as crypto transfers are not reversible. So I don't think Zen needed to do anything more in relation to this.

I appreciate this will likely come as a disappointment to Mr S, and I'm sorry to hear he has been the victim of a cruel scam. However, whilst I have a great deal of sympathy for the situation that Mr S found himself in, I'm not persuaded that Zen can fairly or reasonably be held liable for his loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 October 2025.

Charlie Newton  
**Ombudsman**