

Complaint

Mr N is unhappy that CPS Transfers Limited didn't do more to protect him when he fell victim to a scam. Mr N has brought this complaint with the assistance of a professional representative, but for simplicity's sake I've referred only to Mr N in the text of this decision.

Background

In late 2020, Mr N fell victim to an investment scam. He was cold called by someone who purported to offer advice on investment opportunities. That person persuaded Mr N to place his money into two separate investments. Unfortunately, the person who had contacted him wasn't a legitimate investment advisor at all, but a fraudster.

He was told he needed to create an account with CPS Transfers. He was persuaded to deposit his funds into this account. Those funds were then converted into cryptocurrency which was held in his e-wallet with another business, Cryptopay. In total, Mr N transferred £29,675 into his CPS Transfers account and on to his e-wallet. This took place across several payments between 22 December 2020 and 18 February 2021.

He complained to CPS Transfers that it should've done more to protect him from the scam. It didn't respond to the complaint in time and so Mr N referred his complaint to this service. It was looked at by an Investigator who didn't uphold it. She noted that CPS Transfers Ltd needed to have systems in place to detect unusual or out of character activity that might have been connected with fraud. However, she wasn't persuaded that it would've had reasonable grounds for intervening in connection with any of these individual payments. She therefore didn't think it had done anything wrong in processing Mr N's payments.

Mr N disagreed with the Investigator's view. He argued that:

- Several payments should have been concerning from the firm's perspective. In particular, he highlighted the second payment he made which was for £13,400.
- He pointed out that the period over which the scam took place was two months – this meant that the payments were made in a relatively condensed period of time and this ought to have been a cause for concern.
- The position of CPS as a business that specifically provides services allowing customers to purchase cryptocurrency means it should've been more mindful of the risks posed by cryptocurrency scams.

Because Mr N disagreed with the Investigator's view, the complaint has been passed to me to consider and come to a final decision.

Findings

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 and the terms and conditions of the customer's account. However, that isn't the end of the story. Good industry practice required that firms 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.

We now know that Mr N had been targeted by a scammer. However, the question I have to consider is whether that risk ought to have been apparent to CPS Transfers at any point during the period in which the scam took place and how it should've responded. I've considered that question carefully, and, while I know it will be hugely disappointing to Mr N, I'm afraid I agree with the Investigator's conclusions.

It's important to bear in mind that this was a specialist account – as far as I understand it, it can only be used to either purchase cryptocurrency or receive the proceeds of cryptocurrency sales. As a result, the fact that Mr N was investing money in cryptocurrency was therefore not a particularly helpful indicator of fraud risk. I also need to consider the fact that these purchases of cryptocurrency from a CPS Transfers account were, in effect, transfers between two accounts under Mr N's control – which meant that any risk would be less apparent. In addition, Mr N opened the account for the purpose of making these investments. That meant CPS didn't have any historic data to use as a basis for comparison when deciding whether specific activity on the account was unusual or out of character.

It would be an onerous requirement to expect CPS Transfers to question every customer purchasing cryptocurrency – that would mean it raising specific queries with every one of its customers about the wider circumstances of each individual payment. I would expect it to take additional steps where it had compelling grounds to believe that a customer was at risk of financial harm due to fraud. However, although Mr N made one sizeable payment here (the £13,400 payment on 24 December 2020), I don't think the value of that payment alone is enough for it to have had reasonable grounds to think there was a significant increase in the risk of fraud.

I don't say any of this to downplay or diminish the fact that Mr N 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 CPS Transfers and I'm satisfied it didn't do anything wrong in processing these payments.

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 N to accept or reject my decision before 28 December 2023.

James Kimmitt
Ombudsman