

## The complaint

Mr M complains that Dixipay Ltd didn't do enough to prevent him losing money to a scam.

## What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr M made payments to an account held with Dixipay. These totalled around €40,000 and took place in late 2019 and early 2020. At the time he believed these to be funding a legitimate investment with a firm I'll refer to as 'B'. But he says he later discovered B were operating a scam and he was unable to withdraw his funds.

In March 2020 Mr M contacted Dixipay asking that they return his payments and the profits he'd accrued. He also told them that he believes B had defrauded him and that he'd contacted his local police. No money was recovered. Mr M doesn't think Dixipay did enough to prevent his loss and he complained.

Ultimately Dixipay didn't offer any redress as they didn't think they'd done anything wrong. The matter was considered by our service and our Investigator didn't recommend it should be upheld. Mr M disagreed and asked for an Ombudsman to review his complaint.

In September 2023 I issued a provisional decision in which I said:

*"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'm intending to agree with our Investigator's outcome, and for essentially the same reasons. I know this will be disappointing for Mr M, so I'll explain why. And as I'm providing a greater level of detail, I'm issuing this provisional decision to give both parties a further opportunity to comment before finalising my decision.*

*Whilst Mr M believed he was paying B, his payments actually went to an account in the name of another business 'G'. In the circumstances here Dixipay were providing their customer 'G' with a payment service. G then had its own customers or clients. Dixipay aren't responsible for decisions or actions taken by G.*

*Dixipay have evidenced that they correctly followed their process when opening G's account. I don't think they reasonably could have known (at that time) that the account they were opening would later go on to be used in connection with a fraud or scam. So, I don't think Dixipay reasonably could have prevented Mr M's loss in relation to its opening of the account.*

*I've also reviewed the activity on the account both before and soon after the arrival and spending of Mr M's funds. Given the previous account history, I don't think there was anything so unusual in the account activity where I'd have expected Dixipay to have*

*intervened or to have otherwise done more. So, again, I don't think they failed to appropriately monitor the account.*

*Mr M has evidenced that another victim had contacted Dixipay in July 2019 reporting a series of payments they'd made to the same account, as fraud. Dixipay have explained that when they receive a notification alleging fraud they pass it on to G. G would then provide a response directly to the client and share information with Dixipay. This is broadly what I'd expect in these circumstances and doesn't change my opinion as to whether Dixipay appropriately monitored the account they held. In the course of any business relationship there may be disputes and I don't think it was unreasonable for Dixipay to accept the evidence G provided showing a link between them and the party raising the dispute.*

*When Mr M reported his payments to Dixipay, documents were provided by G evidencing a link between them and Mr M. This included some of the identification documents Mr M had provided as well as copies of bank statements showing the source of the funds. I don't think it was unreasonable for Dixipay to accept that documentation and to not take further steps at the time. Particularly as they had already terminated their relationship with G by that point and the evidence supports that Mr M's money had already moved from the account in any case.*

*Mr M has highlighted two other victims of the same scam, who he says have received redress from Dixipay and he questions why he hasn't been treated the same. This complaint is about the loss to Mr M. And what he is asking about here is a potential complaint from another party. He is also making assumptions as to where the funds for the other party's redress came from. I can only comment on Dixipay's actions in relation to Mr M's complaint. And Dixipay choosing to refund other victims is not a basis upon which I can fairly and reasonably ask them to refund Mr M.*

*Mr M also says that G were linked to other businesses about whom there were warnings online (B being one of these) and that Dixipay had previously ended their relationship with these other companies. He believes this means that Dixipay ought to have ended their relationship with G sooner. I'd generally expect Dixipay to monitor each of their customer accounts on an individual basis. I appreciate that G shared what appears to be the same serviced offices with the other companies. But each of these businesses is a distinct legal entity. And I don't think sharing the same offices was enough of a reason to expect Dixipay to also close G's account. I don't think Dixipay's decision to end their relationship with G at the time they did was unreasonable. I've not seen anything that persuades me that they reasonably ought to have acted sooner in relation to the account that received Mr M's funds (which was the one held by G).*

*Mr M has also mentioned the service he's received from Dixipay. But Dixipay aren't a business that generally deals directly with consumers. And to some extent they were reliant on seeking information from G. I don't think there were service failings by Dixipay such that a compensation award is appropriate.*

*I sympathise with Mr M being the victim of a scam. But as I'm not persuaded his loss is as a result of failings by Dixipay, there isn't a reasonable basis upon which I can direct them to do more to resolve this complaint."*

*Dixipay didn't respond to my provisional decision. Mr M responded with some comments which I'll address below.*

## **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.

In support of his complaint Mr M has provided evidence of various warnings given by different organisations about B. And he says that one of these dated in September 2020 issued by the Capital Market Commission of Bulgaria also made reference to G.

I've considered these, but whilst Mr M may have been dealing with B, the account he paid was G's. And the warning I've referenced above (which he says mentions G) was issued long after Mr M had already made the payments relevant to this complaint. And I'm not persuaded those warnings make a difference to the outcome of this complaint.

Mr M says he believes that Dixipay have violated Anti-Money Laundering (AML) and Know your Customer (KYC) regulations as well as a directive of the European Parliament. The crux of his argument seems to be that Dixipay knowingly allowed the transfer of money that was the result of a criminal scam. He says that had Dixipay complied with the above, then G would not have received his money and his loss would have been prevented. He has referenced the previous notification of fraud Dixipay received in relation to G's account in July 2019 from another person to support this.

I've addressed Mr M's point about the notification from July 2019 in my provisional decision. And whilst Dixipay provided G with a payment service, G had their own customers. And I don't think Dixipay accepting what G told them about that dispute at the time was unreasonable. So, I don't agree that Dixipay continuing to provide G with an account after that date means they were knowingly complicit in furthering financial crime or failed with regard to their AML regulations.

Further to this, even where a payment service provider's (PSP) customer has been found to have acted fraudulently, it doesn't automatically make the PSP liable for their customers actions. Dixipay aren't responsible for the actions of G.

And as I explained in my provisional decision, I'm satisfied that Dixipay followed their usual process when opening the account in question. So, I don't agree that there were failings in relation to KYC. Dixipay followed their process and took appropriate documentation to facilitate G's account being opened. I maintain that they couldn't have known at that time that the account they were opening would later receive funds as the result of a scam.

I'm of course sorry to hear that Mr M still has such a significant loss. And I hope the authorities are able to prosecute those responsible for scamming him and that this results in him receiving redress. But as I don't think Dixipay are responsible for the loss, there isn't a reasonable basis upon which I can direct them to do more to resolve this complaint.

## **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 November 2023.

Richard Annandale

**Ombudsman**