

## The complaint

Mr D complains that Wise Payments Limited did not refund a series of payments he lost as part of a scam.

## What happened

Mr D was looking to invest in cryptocurrency, and was contacted by an individual from a firm I'll call 'P'. They persuaded him to open an account with Wise, as well as a popular cryptocurrency exchange website, Binance. P offered to open these for Mr D and asked him to provide a copy of his driving license, which he did. With this, P opened accounts with both Wise and Binance and provided Mr D with the log in details. He also gave P remote access to his device via an app, and linked his regular current account with a third-party provider I'll call 'X' to the account with Wise via open banking.

Mr D asked P to start investing in cryptocurrency for him and set a monthly limit of £170. However, P made significantly larger transfers from X to his Wise account on his behalf, and the following payments were then made to Binance via debit card:

- 26 October 2022 - £10,000
- 27 October 2022 - £10,000
- 28 October 2022 - £10,000

Mr D says he did not have access to the funds in the Binance account and that these have been lost as part of the scam. Mr D made Wise aware of the scam on 1 November 2022. They issued a final response letter in March 2023. In this, they explained that Mr D had failed to keep his Wise account safe, as per the terms and conditions and that they felt it was more likely the payments sent from X had been unauthorised, so he should approach them to recover the loss.

Mr D asked our Investigator to review the complaint. They felt that it was more likely Mr D authorised the payments, even if he didn't carry them out himself. However, they still felt Wise ought to have noticed that the payments were unusual. It was a new account and the initial payment of £10,000 was of a high value and was made to a cryptocurrency platform, so they thought it should have flagged on Wise's fraud prevention system. And if this had happened, they thought the scam would have been revealed.

However, they also considered Mr D's actions and overall felt that he could have taken steps to mitigate his loss. So, they thought he should bear some responsibility for his loss and recommended a reduction in the overall refund of 50%. In addition, they felt that X, the original sending bank, should also bear some liability and recommended both Wise and X share 25% liability each. This would bring Wise's portion to £7,500 plus 8% simple interest from the date of loss to the date of settlement. Finally, they recommended the remaining £3,990.00 in the Wise account should be returned to Mr D with no need to be deducted from the above refund and that £100 compensation be paid to him for the delay in returning the remaining funds.

Wise did not respond to the Investigators information requests, the view or a notice that a

final decision would be issued based on what we had if they did not get back to us. Mr D responded and did not agree he should bear responsibility for the loss as he had been the victim of fraud. Or at the very least, he thought the split of liability should be 33% for each party.

As an informal agreement could not be reached, the complaint has been passed to me for 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.

It should be noted that this decision is based on the limited information currently available to me, as Wise did not respond to our request for additional information and did not respond to our initial findings in the view.

It's not in dispute that Mr D has been the victim of a scam, which has led to him losing £30,000. What's left to decide is if Wise could have done more to prevent it.

I firstly need to consider whether the payments themselves were made by or otherwise authorised by Mr D. This is because, generally speaking, Wise is able to hold Mr D liable for a transaction if the evidence suggests it's more likely he made or authorised it himself.

In this case, the account was opened by the scammer on Mr D's behalf as he thought this was part of a genuine service being provided to him. And the amounts in question were significantly higher than Mr D had requested, so I think it's more likely the payments themselves were made by the scammer. However, Mr D did give his authority for the scammer to make smaller payments on his behalf and he set a limit of £170 per month to be invested in cryptocurrency. Because of this, Mr D gave the scammer the tools and the apparent authority to make the larger payments on the account, and at no point did he take back that authority for them to act on his behalf. So, I'm satisfied Mr D consented to and therefore authorised the payments to Binance.

Because of this, Mr D is liable for these disputed transactions in the first instance, as is set out in the Payment Service Regulations 2017 (PSRs). However, the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've considered whether Wise did enough to keep Mr D's account safe.

To determine this, I've looked at Mr D's account statements to see if the payments in question were significantly unusual or out of character when compared to his normal account activity. The account itself had been recently opened, and on 26 October 2022 there were a number of larger credits to the account, followed by a £10,000 card payment to Binance. While there is not much other activity to compare this payment to, I do think the value itself is high. When this is considered alongside the fact the account was relatively new, there were a series of transfers in on the same day and the payment was to a cryptocurrency platform, I do think it appeared unusual enough to have warranted intervention by Wise.

I've gone on to consider whether a conversation with Mr D would have unravelled the scam, and from what he's said I think it would have done. There was a warning about P on the Financial Conduct Authority's website and Mr D had only requested small payments be sent to Binance. So, I think contact about a £10,000 payment would have been enough to make

him realise he was the victim of a scam at that point and stop the payment. Wise has mentioned that they do not know if they have the correct contact details for Mr D. I can see we asked them what account opening information had been provided but we did not get a response to this. But Mr D has shown his genuine e-mail address was used to open the account, so I think it's therefore also likely his mobile phone number was also used and that Wise therefore could have contacted him prior to the payment being processed.

I've gone on to consider whether Mr D should bear some responsibility for his losses as a result of any negligence in his actions and if it is therefore reasonable for me to make a reduction in the award based on this. In doing so, I've considered whether Mr D has acted as a reasonable person would to protect himself against the loss he suffered. This is an objective test but must take account of the relevant circumstances.

I have to consider the fact that Mr D gave the scammer his personal identification in order for them to open an account with both Wise and Binance on his behalf, and he allowed them to connect his account with X to the Wise account. On balance, I think this should have been a warning that P was not a legitimate business as these are the hallmarks of a scam. In addition, I can see Mr D did receive e-mail notifications about the activity occurring on the account, so I think he could have seen that transactions were taking place which he did not initially agree to.

With this in mind, I agree a reduction in the redress should be applied and think 50% is appropriate in this case. I've considered Mr D's comments that liability should be shared equally between all parties involved, namely Mr D, Wise and X. However, if this case was only against Wise, and I found Mr D was partially responsible, I would be recommending a 50% reduction. And I think this should be the case regardless of how many other parties are involved as this does not diminish the level of responsibility Mr D had as a starting point for the scam.

I therefore think Wise should reasonably have intervened prior to the first payment of £10,000 and if they had, I think the scam would have been revealed. For the reasons outlined above, I think Mr D should bear some responsibility for the loss due to his actions, so I think the redress should be reduced by 50% - with Wise's liability being 25%.

### **Putting things right**

Wise should refund Mr D £7,500 plus 8% simple interest from the date of the loss to the date of settlement. It should also return the remaining £3,990 in the account if it has not already done so but it does not have to apply 8% to this. Finally, I agree that Wise did not send back the remaining funds to Mr D in a timely manner, and I agree that it should therefore pay him £100 compensation in recognition of this.

If Wise considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr D how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

I uphold Mr D's complaint against Wise Payments Limited in part and recommend the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or

reject my decision before 22 December 2023.

Rebecca Norris  
**Ombudsman**