

## The complaint

Mr K complains that Wise Payments Limited didn't protect him from an investment scam.

Mr K is being supported in making his complaint by a representative. But for ease, I'll refer to Mr K in this decision.

## What happened

In 2021 Mr K says he was introduced by a friend of a friend ('A') about an investment opportunity trading in gold with a company (which I'll refer to here as 'D'). After speaking with 'A' about the investment opportunity for a couple of months – and meeting him in person, Mr K says he decided to invest.

Mr K says he was told by 'A' that his investment would yield a return of 2%; and it was explained to him that gold would be purchased in the UK before being shipped overseas and made into jewellery before being sold for a profit, of which he would receive a share.

On 15 October 2021 Mr K transferred £21,600 from his Wise account to 'D's account.

Mr K says he received returns on the investment for around six months. He says the returns were paid to him in cash.

On 22 July 2022 Mr K made a further payment towards the investment of £180,000 from another bank. Around two weeks after making this payment, Mr K says he found out the investment was a Ponzi scheme investment scam. He then lost contact with 'A'.

In November 2023 Mr K made a complaint to Wise. He said it hadn't taken appropriate action to protect him when he made the £21,600 payment towards the investment. And if it had done, he would've carried out further checks and his loss would've been prevented. Mr K wanted the lost funds returned to him, plus 8% interest.

Wise said as there was limited previous account activity for Mr K – it was unable to detect the £21,600 payment as out of the ordinary. Wise has since said that it thinks any intervention in the £21,600 payment would've unlikely made a difference given Mr K was introduced to the investment by a friend, and he'd not rushed into making the payment having discussed it for a couple of months prior and he met with 'A'.

Wise initiated recovery of the funds – but said this was unlikely to succeed given the passing of time.

Mr K referred his complaint to the Financial Ombudsman.

One of our Investigators considered the complaint but didn't uphold it. In summary, she didn't think there was evidence to prove Mr K had been the victim of a scam.

Mr K didn't agree. He said our Investigator's opinion that he hadn't been the victim of a scam was at odds with other Financial Ombudsman cases where we had found a scam had taken

place. He said the matter was currently under police investigation – and the whole premise of the scam was that the money he transferred to ‘D’ was never invested in gold.

Our Investigator acknowledged that our position had changed in relation to whether we thought ‘D’ was operating as a scam. She said a police investigation didn’t prove a scam had taken place, and that we’d seen evidence from ‘D’s bank account to indicate the funds appeared to have been used for their intended purpose.

Because an agreement couldn’t be reached, I’ve been asked to review everything afresh and reach 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.

Having done so, I agree with the conclusions reached by our Investigator, and for largely the same reasons.

I’d like to say at the outset that I appreciate Mr K has gone to considerable effort when providing his submissions in support of his complaint – providing significant detail as to what he says happened and why he thinks Wise is responsible for the loss he suffered. I therefore want to reassure him that I’ve given everything he’s said careful consideration.

And so, while I’ve summarised his points, and in far less detail than he provided, I want to stress that no discourtesy is intended by this. And if there is a submission or point that I’ve not addressed, it isn’t because I’ve ignored it. Instead, it’s simply because I’ve focussed on what I consider to be the central issues in this complaint – that being whether Mr K was the victim of a scam and if Wise is responsible for the loss he claims to have suffered.

Where the evidence is incomplete, inconclusive, or contradictory, I must make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I don’t doubt that Mr K has lost out financially here; and this has had a significant impact on him. But I can’t say Wise ought to fairly and reasonably cover his losses. I’ll explain why.

In line with the Payment Services Regulations 2017, consumers are liable for payments they authorise. Wise is expected to process authorised payment instructions without undue delay. But it also has obligations to help protect customers from financial harm from fraud and scams. Those obligations are however predicated on there having been a fraud or scam.

And so, it would only be reasonable for me to consider whether Wise is responsible for the loss Mr K claims to have suffered if, indeed, he has been scammed. I’ve therefore considered whether Mr K was a victim of a scam.

Firstly, Mr K has been unable to provide any documentation to demonstrate what he believed he was investing in. And there’s no contract or invoice to show exactly what Mr K was paying ‘D’ for.

I’m also aware that ‘D’ operated from a genuine business premises (a jewellery shop) which Mr K visited - which has since closed. And a company linked to the investment (‘T’) was VAT registered and held a licence to import and export goods through the UK.

I’m also aware that a liquidator was appointed for ‘D’ in November 2023 – with official

insolvency practitioners assigned. This further indicates 'D' was likely a genuine business. If Mr K hasn't already done so, he may wish to contact the liquidator to register his interest.

As our Investigator has also explained to Mr K – we've recently seen information relating to the activity on the receiving bank statements which appears to show the funds being used as they were intended by both the recipient ('D') and its customers.

Finally, I appreciate that Mr K has said the matter is being investigated by the police, however, I'm not aware of the nature of that investigation or if there has been an outcome. And so, I don't consider the police investigation to be a persuasive factor at this stage.

Overall, whilst there is some ongoing investigation into 'D', I must make a decision here based on the available evidence I do have, as well as the wider surrounding circumstances. And while I'm sympathetic to the situation Mr K has found himself in, it would only be fair for me to direct Wise to refund the payments if I thought Mr K had been the victim of a scam and Wise was responsible for the loss – and I'm not persuaded that this was the case.

In terms of trying to recover the lost funds; I'd expect Wise to attempt this at the point it's alerted to the loss – as it has confirmed it did. But more than two years had passed by the time Mr K contacted Wise. Furthermore, 'D' has gone into liquidation.

Therefore, I can't say Wise had any reasonable prospect of recovering the funds.

I'm sorry to disappoint Mr K, but taking everything into account, I'm not going to tell Wise to do anything further.

### **My final decision**

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 K to accept or reject my decision **before 30 July 2024**.

Anna Jackson  
**Ombudsman**