

The complaint

Miss P complains that Wise Payments Limited won't refund money she was tricked into transferring to a fraudster.

What happened

Miss P opened an account with Wise in May 2020. Between July and October 2020, she sent four payments totalling around £17,000 to what she believed was a genuine investment firm. Unfortunately for Miss P, she was actually falling victim to a scam.

Miss P first came across an advert for the firm on a popular social media platform. She left her details and was soon contacted by someone who persuaded her to make an initial investment by card of a little under £1,000.

Miss P could see her investment on a trading platform provided by the fraudster and she appeared to be generating profits. Because of this apparent success, the fraudster, with the aid of software which allows a third party to take control of a computer, guided her through setting up, and making payments to, a genuine intermediary. Miss P says she was able to see her funds both crediting and leaving the account at the genuine intermediary before appearing on the trading platform provided by the fraudster.

After Miss P's deposit of just over £5,000 in August 2020 appeared to be generating good profits, she asked to withdraw some of those gains. At this point the fraudster claimed that a fee would be needed in order to withdraw the money. That fee was of just over £3,500. But, after Miss P made the payment, the fraudster claimed it hadn't been received and would need to be made again. So, on the basis that the previous payment would be refunded, Miss P made another payment of the same amount.

This time the fraudsters asked her to wait for three weeks until the 'contract had expired'. Miss P waited, but when she asked to withdraw funds again, she was told that yet another fee was required – just over £4,000. Miss P paid this amount but was then unable to contact the fraudsters. Realising that she'd been scammed, Miss P reported the matter to Wise. Wise said that it couldn't be held responsible for the payments Miss P made as she had authorised them herself. It also said that the recipient account wasn't fraudulent because it was an account that Miss P had opened and used.

In relation to the card payment, Wise said that Miss P had raised the matter too long after the transaction for it to be disputed through the card scheme operator. It, in any case, doubted that such a dispute would have been successful.

Miss P referred the matter to our service and one of our investigators upheld her complaint in part. They thought that the activity on Miss P's account ought to have caused Wise concern and they should have questioned her about the first transfer she made. Had they done so, the investigator thought, the scam would have been prevented. However, they thought that Miss P hadn't acted reasonably when she'd continued to make payments in order to pay previously undisclosed fees. So, the investigator said Wise should refund all of the first transfer (but not the first card payment), but only 50% of the subsequent payments.

Miss P agreed, but Wise didn't. In summary, it said:

- It did not agree that the £5,000 payment was out of character for a user matching Miss P's profile and pointed out that she'd made payments in that currency before.
- It doubted whether an intervention would have made a difference to Miss P's decision to go ahead – as she'd already carried out the research it was likely to have recommended.
- It didn't think that the rate of return promised to Miss P was unrealistic, given the volatility in the cryptocurrency market at the time.
- The payments went to an account in her own name, which was much less likely to have triggered its security systems.
- The complaint should properly be directed towards the beneficiary of the faster payments, where Miss P also held an account, particularly as she's alleged that her account at that business was accessed without her authority.

As no agreement could be reached, the case was 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.

There's no dispute that Miss P authorised these transactions and that means that under the Payment Services Regulations 2017 and the terms of her account she is presumed liable for the loss in the first instance.

However, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Wise should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and 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 payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

It's first important to state that I can only consider the complaint which has been brought to our service. I acknowledge that the payments Miss P made went to an account held in her own name (albeit one created under the direction of the fraudsters). Nevertheless, I think the obligations on Wise I've outlined still apply.

Miss P has confirmed that she has neither complained to, nor received any redress from, the other financial business. Wise suggests that Miss P's complaint about the other financial business might be successful on the basis that she has alleged that the transactions made

from that account weren't authorised by her. But, while I don't have the full facts of that matter and it isn't my role to consider the liability of the other financial business, it appears that Miss P both knew about and consented to the activity which took place on that account.

So, I've thought about whether Wise should have been concerned by the activity which took place on Miss P's account. Miss P only opened her account in May 2020, so there wasn't a significant amount of activity to compare the disputed transactions against. But, there was some, and I think this was enough to build up a picture of what her typical account activity was – Miss P credited the account and used her card for everyday spending. I can't see that there were any payments, other than card payments, between account opening and the second disputed payment. Other than the disputed card payment, the next largest transaction was only just over £100.

I don't think that the disputed card payment of £999 should have caused Wise any concern, given its size and the fact that Miss P had generally used the account for card purchases up to that point. But I think the first disputed transfer of just over £5,000, based on its size, the fact it went to a new payee and was a type of payment Miss P didn't ordinarily make, did stand out as being unusual against previous account activity.

Wise says that it would have no reason to find the payment suspicious because it was going to an account in Miss P's own name. But, other than the payee name she'd entered matching her own, it's not at all clear that Wise knew that the payment was going to an account in Miss P's own name. In fact, the evidence suggests that this was only revealed later, once Wise had contacted the receiving firm.

I don't think the fact the payee name matched her own was enough for Wise to conclude that Miss P wasn't at risk of financial harm from fraud. In the context of certain scams, notably safe account scams, it might be expected that the payee name entered would match that of the account holder. And, though the balance of Miss P's account wasn't significantly reduced after this payment (in a way that might be consistent with a safe account scam), Wise would not have been able to rule out that possibility at the time the first payment was being made.

In addition, payments made, or appearing to be made, to a consumer's own account (particularly if the recipient is associated with cryptocurrency) are not free from risk and can form part of a well-known pattern of fraud.

It doesn't appear Wise gave any kind of warning before allowing this payment to proceed. I think, based on the concern it should have had about the payment, it ought to have done and I think that warning should have taken the form of a conversation with Miss P.

Had that happened, I think that Wise would have been well-placed to identify that Miss P's circumstances had all the hallmarks of a very common scam, such as:

- Dealings with an unregulated trading platform, advertising on social media.
- The provision of a trading account which appeared to be generating significant profits, despite little or no understanding on the part of Miss P of how these profits were being generated.
- The encouragement by the fraudster to invest greater sums into the investment.
- The use of software to take control of Miss P's computer.
- The fact that the fraudsters asked her to open an account at an intermediary and seemed to have some control over it.
- The fact she was promised 10% returns as a minimum. While the cryptocurrency market might have been volatile and large returns were possible, no genuine investment firm could *guarantee* returns from speculation on the value of cryptocurrency.

Given that, as far as I'm aware, Miss P was not given a cover story, there's no reason to think that she wouldn't have divulged this information had Wise contacted her. Had it identified this information, which I think is more than likely, I think it would have been able to give a strong warning that she was falling victim to a scam, a warning sufficient to dissuade her from continuing.

While Wise argue that Miss P was already determined to go ahead at this point and had done her own research, I can't see this extended beyond reading a few (likely fake) reviews, so I'm not persuaded that she wouldn't have listened to Wise's warning which, given its knowledge of scams and the techniques of fraudsters, is likely to have been much more powerful than the comments of strangers on the internet.

Overall, I think Wise didn't do enough here and, had it done more, Miss P's loss would have been prevented.

I've also thought about Miss P's role in what happened. She's an inexperienced investor and I can understand why aspects of this scam were convincing. Although the fraudster's website is no longer accessible, the screenshots I've seen of the application show it had a reasonably professional appearance. The emails she received from the fraudsters contain glossy and professional looking signatures and some letter-headed paperwork was provided. I can also imagine that the fraudster's apparent knowledge of financial markets would have seemed compelling. Therefore, I think that up to the point of the first £3,511.60 payment Miss P acted reasonably.

However, following her request to withdraw funds, the nature of the scam changed. The fraudster now demanded money in order to release her funds. I think this should have caused Miss P serious concern as, based on her own testimony, she'd previously been advised that withdrawals could happen at any time. I think it should have also caused her some worry that the withdrawal fee could not have been simply deducted from her apparent gains. And, by her own account, when she later checked reviews of the company, she could see very negative ones had appeared. I think at the point of making the third payment she probably ought to have made further enquiries before continuing.

That means I've decided that Wise should refund Miss P in full for the £5,000.60 transaction, but that, taking into account her role in what happened, a deduction of 50% should be made from the refund of the other three payments. In relation to interest, it doesn't appear that Miss P had any specific plans for this money after it had been moved into her Wise account, other than to make some payments to a relative. So, as the Wise account is not interest bearing, I don't think that any interest should be paid.

Finally, in relation to Wise's attempts to recover Miss P's funds, this was never going to be possible as Miss P moved the money into her own account at another financial business and it was sent to the fraudster.

My final decision

For the reasons I've explained, I uphold in part this complaint against Wise Payments Limited and instruct it to pay Miss P:

- The amount of the second disputed payment - £5,000.60
- 50% of the amounts of payments three, four and five - £5,512.40

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 31 October 2022.

Rich Drury
Ombudsman