

The complaint

Ms K complains that Wise Payments Limited (trading as Wise) won't refund money she lost, after she fell victim to an Authorised Push Payment (APP) scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it all here, But briefly, Ms K fell victim to a safe account scam on 20 July 2022 where she transferred £1,000.00 followed by £2,403.16 from her other bank account (subject of a separate complaint) to her Wise account and then from there on to the scammer.

Our Investigator did not uphold the complaint. She didn't think the transactions ought to have led to Wise intervening. She also thought the £150 Wise has already offered for any distress and inconvenience it caused was fair.

Ms K did not agree. As the case couldn't be resolved informally, it's been passed to me for a 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.

I'm sorry to hear Ms K was the victim of a scam and I can understand why she wants to do all she can to recover the money she has lost. She's lost a lot of money through no fault of her own. But that alone doesn't mean that Wise must reimburse her. It's important to emphasise that I'm only considering whether Wise, which had no involvement in the scam itself, should be held responsible for what happened. I can only direct Wise to refund Ms K's losses if it can fairly and reasonably be held responsible for them.

I have carefully noted all the representations made by Ms K, but I won't be addressing every single point that's been raised. It doesn't follow that the points haven't been considered, simply that I don't need to particularise every point in reaching an outcome I consider to be fair and reasonable in all the circumstances. I've instead concentrated on the issues I think are central to the outcome of this complaint.

Ms K has referred to a case from our website. I don't know the finer details of that particular case - but each case is judged on its own merits and what may appear (on the face of it) to be a similar set of circumstances, may often transpire not to be the case.

As the investigator mentioned - the transactions aren't covered by the Contingent Reimbursement Model (CRM) code. The Code is a voluntary Code and Wise is not a signatory. Ms K also refers to the regulatory action regarding the reimbursement of funds lost through authorised push payments (APP) scams - which hasn't been put in place yet. It's important to note that any changes in legislation can't be applied retrospectively.

Ms K has also referred to large sections of the PSRs (Payment Service Regulations) that don't apply in this case. These were authorised transactions rather than unauthorised transactions – albeit Ms K was tricked into making the transfers. Many of the sections Ms K has referred to are in respect of unauthorised transactions.

There's no dispute that Ms K instructed Wise to make the payment, albeit under deception. Under the relevant regulations – the Payment Services Regulations 2017 – that means she is responsible for the loss in the first instance.

However, taking into account the law, regulatory 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.

There is no documented threshold for intervening on a payment, but it is for me to decide what I think is fair and reasonable in all the circumstances. The amount of money Ms K sent, while clearly not insignificant to her, doesn't in and of itself suggest to me any heightened risk of fraud. I also can't see that Wise knew anything about the recipient of the funds that ought to have given it cause for concern (an account which was neither held by Wise, nor would it have had any control over).

I accept that the two transactions were larger than usual for the account and the balance did reduce to zero, but I'm not persuaded this would have stood out as unusual or suspicious. The transactions were completed online and there was no conversation between Wise and Ms K about them and Wise's process does not involve asking the purpose of a payment.

I am mindful that there is a difficult balance to be struck for firms between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. Of course, those arrangements do need to accommodate that spending habits alter, unusual needs arise, and it will be impossible to prevent all fraud without a significant number of genuine payments being delayed considerably and inconveniently. To Wise, they appeared as genuinely authorised payments.

All of this means that, without any interaction between Ms K and Wise before the payment was made, I can't see any reason why Wise would have suspected Ms K was falling victim to a scam and I don't think it had any reason to intervene and question the payments before they were made.

I've also thought about whether Wise could have done any more to recover Ms K's funds from the beneficiary bank. Both transactions were made on 20 July 2022 at 6:10pm and the scam was reported at 7:48pm the same day. I appreciate Ms K may have tried to call Wise sooner – but the funds left her account with Wise immediately and were removed from the

beneficiary account within minutes. The beneficiary bank's records show Ms K's funds debited the scammer's account at 6.11pm and 6.12pm. Therefore, even if Wise had acted sooner - there wasn't any more it could've done to recover the funds.

Ms K complained that Wise didn't respond to her queries and didn't call her back when it said it would. Ms K is also unhappy as Wise's phone lines weren't open when she tried to report the scam. But Ms K was able to notify Wise of this potentially fraudulent activity instantly and it responded within 40 minutes. There is no requirement for Wise to respond verbally or within 20 minutes. Wise is not signed up to the Best Practice Standards (BPS) which requires its members to operate 24/7 fraud reporting facilities.

Wise offered Ms K £150 for its lack of response to her follow up questions. I am satisfied that £150 compensation is reflective of the distress and inconvenience caused here. The scam occurred on 20 July 2022; Wise acknowledged Ms K's fraud report after 40 minutes of her reporting it. Wise issued its fraud claim outcome five days later - on 25 July 2022. It also issued its final response letter on 5 August 2022 – all within the time frames I'd expect to see. So, although Ms K did experience some distress and inconvenience due to the lack of responsiveness from Wise whilst it was investigating her case – I think this sum fairly reflects the distress and inconvenience caused which was over a relatively short period of time.

I appreciate my decision will be a disappointment to Ms K. She has put time and effort into bringing her complaint. But I don't think Wise treated Ms K unfairly when it concluded that it was not responsible for refunding the money Ms K has lost. For the reasons I have explained, there are no grounds on which I could say that Wise should, fairly and reasonably, bear the responsibility for Ms K's loss.

My final decision

My final decision is I uphold this complaint in part. I am not upholding the complaint in relation to Ms K's losses to the scam.

Wise Payments Limited has already made an offer to pay £150 to settle the complaint in respect of the distress and inconvenience caused and I think this offer is fair in all the circumstances.

So my final decision is that Wise Payments Limited should pay Ms K £150 to put things right for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 23 June 2023.

Kathryn Milne
Ombudsman