

The complaint

Mr K complains that Wise Payments Limited trading as Wise won't refund the money he lost when he fell victim to a scam.

What happened

Mr K received a text, allegedly from the post office, asking him to pay a small fee to rearrange delivery of a parcel. He followed the link to enter his card details, but no payment was taken.

A few days later, Mr K received a call from someone claiming to be from the bank who provided the card he had used. They said there had been unusual activity on his card, and asked if he had used it recently. When Mr K mentioned the text, they said that must be how his card details had been compromised.

Unfortunately, this call was from a scammer impersonating Mr K's bank. They persuaded him to send funds to his Wise account. It seems they told him this was needed to clear a fraudulent standing order that had been set up, and the money would then be credited back to his bank account.

The scammer directed Mr K to change the password for his Wise account. He paid in the funds as instructed. Following this, a payment of £16,650 was sent to a third party.

When Mr K realised he had been scammed, he reported this to Wise (as well as his bank). Wise was able to recall £7,116.18 from the account the funds were sent on to, but held Mr K liable for the remaining amount. He complained about this, saying he didn't authorise the payment. But Wise maintained its position as it thought he had authorised it.

Unhappy with this response, Mr K referred the complaint to our service. Our investigator didn't uphold it. Although they thought Mr K had been tricked into making the payment, they thought he had authorised it. And they thought it was reasonable that Wise processed the payment without completing further checks or identifying a fraud concern.

Mr K has appealed the investigator's outcome so the case has been passed to me. He says he received notification that a transaction had been cancelled, which he thinks shows Wise did have fraud concerns – and so should have done more to protect him.

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've decided not to uphold it. I'll explain why.

First, I've considered whether Mr K authorised the payment. As in broad terms, he would generally be liable for a payment he authorised – whereas Wise would generally be liable if he didn't.

Under the relevant regulations, the Payment Services Regulations 2017 (PSRs), authorisation comes down to whether the payment was properly authenticated – and whether Mr K consented to it. The key issue here is that Mr K says he didn't consent to the payment.

However, consent has a particular meaning under the PSRs. It doesn't mean informed consent. It's about whether Mr K, or someone acting with his authority, completed the steps agreed between Wise and Mr K, under the terms of the account, to make a payment.

Two One Time Passcodes (OTPs) were sent to Mr K by Wise, and used, during the scam. It appears he may have disclosed one to the scammer under the guise it was needed to change his password. But it seems the other was shared with them (bearing in mind they were posing as Mr K's genuine bank) on the understanding it would be used to make a payment. It also sounds as though he may have known/understood the scammer had access to his account and was making payments. What he *didn't* know was that the scammers would send the funds to a third party (rather than him) and/or that they wouldn't later return the payments.

Having put this to Mr K, he doesn't seem to dispute this understanding. He's reiterated that he didn't know or agree that the payment would be sent *to a third party*. While I accept he was tricked about the recipient, I think the payment would still be deemed authorised under the PSRs. As the steps were likely completed by him and/or someone acting with his authority – even though that authority was gained through deception.

And so the starting position is that Mr K is liable for the outstanding loss stemming from the payment. However, I have also considered whether Wise did, or should have, identified the payment as presenting a fraud risk. And if so, whether it should therefore have taken further fraud prevention measures which would have prevented Mr K's loss.

In considering this, it's important to note that Wise isn't a bank; it's an e-money institution (EMI). That will affect the type, and value, of payments it generally processes, and the type of account activity it expects to see, when compared with a standard retail bank.

Mr K had previously used his account to make high-value payments. While I appreciate his point that these were international payments to family, rather than payments to another UK account, I still consider it reasonable that this factored into Wise's judgment of what level of payments to expect on the account. I have also considered that the funds were sent a new payee. But I don't think Wise ought to have taken further steps to verify this – bearing in mind the use of OTPs to make the payment.

Overall, I don't think it was unreasonable for Wise to simply process the payment in line with the request it received. Under the PSRs, it has a duty to promptly execute authorised payment instructions. And I don't consider it remiss that Wise didn't identify the payment as suspicious enough to warrant additional checks.

Mr K has pointed out that he received an email from Wise at the time saying a transfer had been cancelled – which he thinks shows it *did* have fraud concerns. But, having checked Wise's records, I've found the cancellation related to an attempt to move funds *into* the account. It appears an inward transfer was cancelled by Mr K, and another was attempted but there weren't enough funds in the sending account. So I don't think this was anything to do with Wise having fraud concerns about the outgoing payment that was completed.

In saying all of this, I'm mindful Mr K has lost out due to being tricked by a scam. It's just that I'm not persuaded his loss is attributable to failings by Wise. And so I don't consider it fair to expect it to accept liability for his loss.

My final decision

For the reasons given above, my final decision is that I do not 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 12 December 2023.

Rachel Loughlin
Ombudsman