

The complaint

Ms H has complained that Wise Payments Limited (“Wise”) won’t refund the money she lost to a third-party scam.

What happened

Between 1 September 2022 and 30 September 2022, Ms H sent a total of £1,740 spread over several smaller transactions (of values ranging between £141 and £465) to a business (I will refer to as S) that she believed to be legitimate at the time, but which later turned out to be a scam. The payments were supposedly refundable fees she needed to pay to enrol in a job which required her to write hotel reviews.

On 1 October 2022, Ms H told Wise she’d been the victim of a scam. Wise managed to recall some of Ms H’s money from the beneficiary banks but only £136.54 remained as the funds had already been removed the scammer.

Our investigator did not uphold the complaint. He felt the transactions weren’t large enough to trigger concerns with the bank. This was a new account there was nothing for Wise to compare the transactions against and so he said they couldn’t be considered unusual.

Ms H felt the bank told us that something was not true. She said the bank told us that she’d not been in contact with the scammer, and she sent us screen shots of her communications.

As the case could not be resolved informally, it has 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.

In deciding what’s fair and reasonable, I’m required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Firstly, I’m sorry to hear Ms H has been the victim of a scam. But having thought very carefully about everything I’ve come to the same outcome as the Investigator and for broadly the same reasons.

I think it would be helpful for me to start by explaining that in circumstances such as Ms H's, an account that is later found to have been utilised fraudulently doesn't automatically entitle the victim (who was tricked into sending funds to that account) to a refund of their losses. I could only direct Wise to refund Ms H's loss if I'm satisfied it reasonably failed to prevent it or did something wrong where it would be fair to ask it to provide a refund.

Wise is an electronic money issuer (EMI), not a bank or building society. EMIs are set up with the purpose of sending and receiving money, including internationally and in different currencies. With that in mind, I've considered Wise's actions when monitoring the account's operation. And the adequacy of its response when notified Ms H was the victim of a scam.

Contrary to Ms H's concerns about what she believes Wise has told us – I don't think there is any dispute that Ms H has been the victim of a scam. I appreciate she was contacted several times by the scammer and have reviewed the messages she has sent. I don't think this changes the outcome here.

It is also accepted that Ms H authorised the scam payments from her Wise account. So, although she didn't intend the money to go to the scammers, under the Payment Services Regulations 2017 and the terms and conditions of her account, Ms H is presumed liable for her loss in the first instance. And under the terms and conditions of the account, where a valid payment instruction has been received, Wise's obligation is to follow the instructions that she provides.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for a bank or EMI like Wise to take additional steps or make additional checks before processing a payment in order to help protect its customer from the possibility of financial harm from fraud.

I agree with our Investigator, and I am satisfied Wise didn't miss an opportunity to prevent the payments. I've reviewed the statements for the account and taking into consideration the nature of the account and its expected use I don't think that Ms H's payments crediting the account, nor the spending of those funds would have given Wise cause for concern in a way that I'd say it ought to have intervened. The payments were relatively small (although I do appreciate altogether this is a lot of money for Ms H) and they are spread out over the month. And returns from S come into the account. So, I don't think the pattern of activity would have looked suspicious to Wise.

Wise can't reasonably be involved in every transaction. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. If all payments such as the ones Ms H made were stopped while further enquiries were made, many legitimate payments would be stopped which would cause significant disruption and delay.

Taking into account good business practice and what I deem to be fair and reasonable, Wise is generally expected to assist its customers in recovering funds lost in a scam. I've considered Wise's actions once it had been put on notice that Ms H was a victim of fraud on. Wise says it contacted the beneficiary banks as soon as it was made aware Ms H was a victim of fraud on 1 October 2022 and backlisted its own recipients but all of Ms H's funds had been spent (except for £136.54 which was recovered and returned to Ms H). This is not unusual as most scammers remove funds within hours.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 19 December 2023.

Kathryn Milne
Ombudsman