

The complaint

Mrs Q complains that Wise Payments Limited ("Wise") won't refund payments totalling £1,898 made from her account that she says she didn't authorise.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary, Mrs Q fell victim to a scam in August 2022 after she was contacted by a third party ("the scammer") claiming to be from Amazon. She was told that her account had been subject to fraud and had been used to purchase a mobile phone.

The scammer told Mrs Q that, in order to receive a refund, she would need to open an account with Wise. The scammer talked her through how to open an account and two payments were made into it from Mrs Q's HSBC and Santander accounts. Two payments were then made from Mrs Q's newly opened Wise account using the funds she had transferred in from her other banks:

| Date/Time | Payee | Payment method | Amount |
|----------------------|--------------|----------------|--------|
| 05/08/2022 9:13am | Tide account | Transfer | £949 |
| 05/08/2022 9:34am | Tide account | Transfer | £949 |

Mrs Q later realised she had been scammed. She contacted Wise as she claimed that she hadn't authorised the two payments made on 5 August 2022. However, Wise thought the payments were likely authorised by Mrs Q as it couldn't see how anyone else would've been able to carry out the transactions, so it declined to refund the money she'd lost. Unhappy with this, Mrs Q referred the matter to our service.

Our investigator didn't uphold the complaint. She said the evidence showed that the Wise account was likely opened by Mrs Q, and that the payments were made from her device. As the investigator couldn't establish any point of compromise, she didn't think it was likely that anyone else had made the payments, so concluded they must have been authorised by Mrs Q. In terms of the £150 compensation offered, our investigator thought this was fair for the delay in Wise contacting the beneficiary bank, as it ultimately wouldn't have made a difference given the money had been swiftly transferred out of the account.

Mrs Q disagreed, so the matter has been escalated to me to determine.

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 the investigator and have decided not to uphold it, as I think the payments were most likely authorised by Mrs Q. I'll explain why.

When considering what's fair and reasonable, I am required to take into account relevant law and regulations; the regulator's rules, guidance and standards, the codes of practice; and, where relevant, what I consider to have been good industry practice at the relevant time.

The disputed transactions complained about took place in August 2022, so of particular relevance to my decision are the Payment Services Regulations 2017 (PSRs) – which apply to transactions like the one made from Mrs Q's account.

The PSRs say that a payment transaction is authorised by the payer where they have given their consent to the execution to the payment transaction. Such consent must be given in the form and in accordance with the procedure agreed between the payer and the payment service provider.

Unless the payment service provider can show consent has been given, it has no authority to make a payment or debit the customer's account. Where a payment service user denies having authorised a payment transaction, it is for the payment service provider to prove that the payment transactions in question were authorised by the customer.

Having considered the facts before me as well as the relevant law, it seems to me that the key question I need to determine here is whether it is more likely than not that Mrs Q authorised the transactions. In other words, I need to decide whether Mrs Q made the transactions herself or gave someone permission to do so. This is important because a customer will usually be liable for payments they've authorised and, generally speaking, a bank will be liable for any unauthorised payments.

In this instance, both payments were made from a newly opened Wise account in Mrs Q's name. I can see that the account was opened using Mrs Q's details, and she also sent a copy of her driver's license, as well as a picture of herself, in order to verify her identity, which matches the person in the driver's license. I appreciate she may have done this unwittingly, thinking she was trying to get money back from her Amazon account. But nonetheless, I'm satisfied she likely opened the account herself and had access to it in order to make the payments.

In terms of the payments themselves, Wise has provided evidence to show that only one device was used to ever login to the account, which was the same device/IP address used to make the payments. The payments were authenticated by password, which Mrs Q would have chosen when she opened the account. And she hasn't said that she shared her Wise account login details with anyone. So, given the account had been registered and the payments all made from the same device, it seems unlikely that anyone else would have been able to log in from a different device with Mrs Q's password.

Mrs Q has also maintained that no one else had access to her device, and that she did not download any remote access software onto her phone either. So, there's seemingly no other explanation for how the payments came to be made from her phone, other than them being made by Mrs Q. I accept it's possible she may not recall doing this at the time if she was under pressure from the scammers to try and get the money back she was told she'd lost.

But given no one else had access to Mrs Q's device, there is seemingly no point of compromise for the payments to have been made by an unauthorised third party.

Therefore, the only plausible conclusion is that either Mrs Q set up the payments after opening the Wise account, or she gave her details/device to somebody else, thereby giving her consent and authority for payments to be made on her behalf. I appreciate that Mrs Q disputes this but given no one else had access to her details or device, there is no other more plausible explanation for how the payments could have otherwise been made.

As a result, I don't think Wise has acted unfairly by failing to treat these payments as unauthorised. I do not doubt that Mrs Q has been scammed in these circumstances though and may have unwittingly made the payments at the scammer's instruction, so I've considered whether Wise ought reasonably to have intervened at any point based on the transactions appearing suspicious or out of character.

However, given the account had been newly opened, there was no previous transaction history for Wise to compare the transactions against to determine whether they were unusual. And the amounts were also relatively low in value and did not follow any common fraud patterns that Wise ought to have identified. Therefore, I don't think it has acted unfairly by failing to make further enquiries with Mrs Q before allowing the payments to be processed.

I've also considered whether Wise did enough to try and recover the money after the fraud had been reported. Mrs Q reported the fraud to Wise on 5 August 2022 at 11:02, but it did not issue a recall request at that point and didn't do so within a reasonable time frame either. However, the beneficiary bank has informed our service that all the funds were moved out of the receiving account by 10:54AM on 5 August 2022, which was before Mrs Q has reported the fraud to Wise. So, while I think Wise ought to have taken action much sooner than it did, it ultimately wouldn't have made any difference as the money was already gone. Wise offered £150 compensation in recognition of its delay in contacting the receiving bank. And given it wouldn't have been able to recover the money anyway, I'm satisfied its offer of compensation is fair.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Q to accept or reject my decision before 2 January 2024.

Jack Ferris
Ombudsman