

The complaint

Ms G complains that Wirex Limited have declined to refund transactions on her account that she says she did not make or otherwise authorise.

What happened

I issued a provisional decision in 2023 to explain why I thought Ms G's complaint should be upheld. And I said I'd consider anything else anyone wanted to give me. This is an extract from my provisional decision:

"In November 2020, someone transacted on Ms G's Wirex account, exchanging money for cryptocurrency before moving it onto other cryptocurrency wallets. Ms G says she did not make or otherwise authorise these payments. Ms G said that she had made a small initial investment with an investment company that a friend had recommended to her. She said on the day in question she had been on the phone to them and they informed her she was due returns on this investment. To get the returns paid into her account and on the investment company's instructions, she had signed into her account and downloaded remote access software. She said her screen went blank and so she tried to log back into her account, and when she eventually got back in she saw the funds had left her account and so tried to contact Wirex to ask them to stop the payments.

After reviewing what had happened, Wirex refused to refund Ms G. They said that on balance they felt it was most likely that Ms G made or otherwise authorised the payments because:

- The transactions were authorised on the same device and IP address as previous transactions which Ms G was not disputing;*
- Ms G transferred funds into her account around one week before the disputed transactions took place, which were used to make the exchanges and transfers out of her account;*
- On the day of the disputed transactions, £3,000 was transferred to Ms G's external bank account. £3,000 was then exchanged into cryptocurrency.*

Unhappy with Wirex's response, Ms G brought her complaint to our service. One of our investigators looked into what had happened, and did not recommend that the complaint be upheld. They did not think that Wirex had done anything wrong in processing the transactions requested on Ms G's account, because they thought it was most likely that Ms G or someone with her consent authorised the transactions.

Ms G remained dissatisfied. She said, in summary:

- She did not authorise the payments, nor allow anyone else to do so. The complaints process had been flawed and prolonged, and this had worked against her as she could not remember exactly what happened after such a long time – particularly as Wirex did not allow her access to her account.*
- She would have transferred funds to her Wirex account in November, because this was to be sent to her son's cryptocurrency account to invest on her behalf. She withdrew some of this because she had transferred more than she needed, and this*

had nothing to do with the scam.

- *She had not “built up a balance ready to make payments” – she had transferred money in the same week.*
- *She was logged in at the time of the transactions and her screen kept going blank which is why she was trying to get back in – which is why the 2-factor authentication was completed on her device.*
- *Since our investigator’s view, she had spoken to members of her family who were present on the day in question, and they recalled some additional information. Her relative confirmed that the third-party company were on the phone to her and using remote access software with her at the time of the disputed transactions. Her relative thought that she said she had agreed with them that she would have her funds returned, and so was expecting funds to come into her account rather than out of her account.*
- *As soon as she saw the transactions, she tried to report the matter to Wirex but they failed to respond or stop the transactions as requested. She asked why she would have contacted them with such urgency if she had made the transactions. She did not feel our investigator had dealt with this point at all.*
- *She would have been using her phone and PC when the transactions took place as these are indeed the only two devices she uses. The same goes for the IP address.*
- *She felt our investigator accepted what Wirex said – that she would have been sent texts and emails about the transactions – without them evidencing it. She said she did not receive these.*
- *She does think she mentioned the screen mirroring software to Wirex when she complained.*

As no agreement was reached, this matter has come to me to decide.

What I’ve provisionally 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 am minded to reach a different outcome to our investigator. I will explain my current thinking here, but prior to reaching any final decision I will allow both parties time to respond with further points or evidence for my consideration.

Generally, Wirex can hold Ms G liable for disputed transactions if the evidence suggests that it is more likely than not that she authorised these payments or gave someone else consent to make them on her behalf. I do not think I have been provided with evidence of proper authentication from Wirex here. Their process, after it has been initiated with on the app, involves an email being sent to the registered email address on the account, which Ms G or someone acting on her behalf would have to click a link to authorise the transactions. But, given that the payments were sent, I will assume for now that someone authenticated them by responding to an email from her genuine email address. This alone, however, would not be enough to say that Ms G authorised these transactions. The regulations relevant to this complaint say that Wirex can only remove the funds from her account if she consented to the payments being made.

Having reviewed what happened, I think it is likely that Ms G did not consent to these payments being made. I say this because:

- *Ms G has not denied that she had been logged in around the time of these transactions, using her phone and her computer. She explained she remembered she was told by the third party ‘investment company’ that she had returns from an earlier investment she had made with them and she was speaking to them on the*

phone at this time. From the available evidence including Ms G's testimony, it is likely that they were coaching her through what she needed to do to get the money back – which is likely why she logged in. I do appreciate that her memory of exactly what she was told by the 'investment company' has diminished over the many months between the scam and coming to our service, but I think on balance this is most likely.

- She has explained that she was asked to download a piece of remote access software, that does allow the third party in another location to act on your computer. Her testimony of what happened on her computer at this time is in line with what I would expect when this sort of software was being used for the purpose of sending unauthorised transactions. Ms G's testimony that she had logged in on her Wirex account on her computer at the time of the transactions would mean that the third party scammer would be able to complete these transactions on her device – and I think it is likely that they were able to access her emails to confirm the transaction this way too. Ms G has provided all of the emails that she had from Wirex, and did not have these, which could be because the third-party scammer deleted them when they had completed the scam. This provides a viable point of compromise which would explain how a third-party fraudster could have accessed her account and completed the transactions without her consent. It also would explain why the technical evidence makes it appear that two factor authentication was successful, and why the evidence says that this took place on what appears to be Ms G's devices.
- Our investigator was concerned that Ms G had not mentioned the screen mirroring software to Wirex, or initially to our service. But Ms G thinks she did tell Wirex and has otherwise been highly consistent in what she says happened. And I can see that when she was emailing Wirex in November 2020 she said "my account was hacked and my screen went blank and then all my money was taken and it now says there is a pending transaction of £6,188.56 how can I get my money back?". Whilst this does not mention the software name, I do think this report is in line with what someone in her position would have said in these circumstances.
- I find it persuasive that Ms G contacted Wirex prior to the payments being completed, when she saw they were pending on her account. If this was something she had done on her own and was being dishonest about after the fact, it seems unlikely that she would have got in touch to try to cancel payments before they had completed.
- Ms G's testimony with regards to why there were funds in her account, and funds withdrawn to her own account previously, all seem plausible – and I don't think show that she was building up funds for these specific transactions. I say this because she was asking her son to help her invest – so she had intended to make use of these funds herself with her son's help.

And so, unless anything changes, I will be asking Wirex to refund the disputed transactions. I will also likely ask them to pay interest on the funds, but in order to calculate the fair and reasonable rate I will ask Ms G to provide an explanation for what she would have done with these funds had she not lost them – and I will happily hear any thoughts from Wirex on this matter too.

My provisional decision

I am currently minded to uphold this complaint and require Wirex to refund Ms G's losses with interest."

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.

Ms G got in touch to say she accepted my provisional findings. She expressed that she felt immeasurable relief to know that everything had been reviewed and analysed and that she had been heard for the first time. She accepted that she had been naïve in her actions but said that she had lost these funds from her retirement savings. She said she no longer had any Wirex or similar accounts.

Wirex responded to say they did not agree with my provisional decision. They said, in summary:

- They could not see any communication from Ms G other than an email on 23 December which said “my account was hacked and my screen went blank and then all my money was taken and it now says there is a pending transaction of £6,188.56 how can I get my money back?” – they said there was no email prior to this and asked me to share any emails sent in November 2020.
- There was no transaction for £6,188.56 and any pending transaction is normally completed within minutes. Any transaction on their crypto account would normally show in the crypto denomination and there were no debits equivalent to the amount stated by Ms G. A pending transaction is completed within minutes – the longest on her account at the time took 35 minutes.
- Ms G used her Wirex card even after the crypto withdrawals with transactions made on 22 and 27 November for low amounts
- They think the £6,188.56 transaction that the user was referring to had been attempted on or after 27 November and was not successfully completed as seen from the evidence provided.

I wrote back to Wirex to clarify that the payments in question were two transactions converting GBP into cryptocurrency which were for £3030 and £6250.45 on 12 November. Cryptocurrency was then sent out of the cryptocurrency side of the account which according to online sources stating the exchange rate for that cryptocurrency equated to around the same amount as the money converted into cryptocurrency. They did not appear to disagree with this.

Wirex said they could not see that any of the transactions could have been stopped by them as they would have been processed prior to Ms G getting in touch – and said they had no record of the chat message I had referenced in my provisional decision anyway. I want to clarify that I was not saying they should have been stopped at the time. An already initiated payment often cannot be stopped by the time a customer contacts a business, even where it appears to be pending on the customer’s account. My point was that the fact she got in touch when she saw them whilst she thought they could be stopped added to the credibility of her statement that she had not authorised or known about the transactions. I say this because she was in the belief that Wirex could reverse the transaction she had seen when she got in touch with them.

Wirex said that Ms G accepted she had downloaded the remote access software and had logged into her account – whether she had approved the withdrawals or the scammers approved it, she had given them the access which led to the loss of her funds. These are actions that Ms G admits making, and so she would be held responsible for the loss. She had allowed the scammers to circumvent the two factor authentication, and so even if she did not herself authorise the transactions herself, she should still be liable for the transactions in the circumstances.

It is true that the relevant regulations say that where a person allows for payment transactions to be initiated by someone acting on their behalf they can be held liable for the transactions. This can be done by allowing a third party to undertake a task on your behalf

such as initiating a payment. And a customer can also be liable for the actions of a third party if they go on to make further payments that they did not ask the third party to make, or even know about.

In this case, the evidence does not suggest that Ms G understood exactly what the software that she had downloaded did, and she did not think she was giving someone else access to her account in order to transact on her behalf. She simply thought they were going to show her how to receive funds – and was not aware that the software would allow them to actually access or send funds from her account. Therefore I do not find that she gave them authority to act on her behalf, and so by extension I do not find she can be held liable for the transactions they undertook which she did not know about or ask them to undertake on her behalf.

Putting things right

So, in order to put things right, I am asking Wirex to refund both the payments that were made to cryptocurrency before being transferred out of her account, totalling £9,280.45 plus 8% simple interest from the time the payments were made to the date of the refund.

My final decision

I uphold this complaint and require Wirex Limited to refund Ms G's losses and interest as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 23 February 2024.

Katherine Jones
Ombudsman