

## The complaint

Mr G complains Wise Payments Limited (Wise) is holding him liable for two payments he didn't authorise.

## What happened

In late 2023, Mr G received a call from someone claiming to be from Amazon. They said his account had been hacked and his banking details were therefore compromised. They told him someone was trying to use his account to purchase iPhones. Mr G says the caller was able to correctly confirm what items were showing in his Amazon basket, so he believed they were genuinely from Amazon. Unfortunately, it seems they were actually a scammer.

Mr G was persuaded to move funds from his "compromised" main bank account, to a new account he was prompted to set up with Wise. The scammer directed Mr G to download remote access software so they could (allegedly) help him with this process. Unbeknownst to him, it seems this enabled the scammers to see his login details and to access his account. Mr G moved money into the Wise account, thinking only he had access and that this would keep the funds safe. But the scammers were able to take two payments £1,220 and £549.

When Mr G found out about the payments, he complained to Wise that he hadn't authorised them. But it didn't agree to refund him. It said the payments had occurred due to him granting remote access to his account. That had allowed the scammer access to its two-factor authentication (2FA), in breach of the account terms.

Unhappy with this response, Mr G referred his complaint to our service. We asked Wise for further information to help us investigate. It didn't reply by the deadline we set. Our investigator therefore reviewed the complaint based on the information we had. They concluded the payments were likely unauthorised. And that Mr G hadn't failed *with gross negligent or intent* to comply with his obligations.

The investigator recommended Wise should refund Mr G, with interest. They set a deadline for the parties to confirm whether they accepted the recommendation. Mr G replied to confirm he agreed. But Wise didn't respond.

The investigator explained that, as Wise hadn't responded, the complaint would be decided by an ombudsman. They set a deadline for the parties to provide any further points or information for consideration. That deadline has passed, and Wise still hasn't responded.

So, I'm now proceeding with my consideration of the complaint. The rules that govern our service, specifically DISP 3.5.14R, allow me to do this in the interests of resolving complaints quickly.

## 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. I'll explain why.

Mr G denies authorising these payments. In line with the Payment Services Regulations 2017 (PSRs), the onus therefore falls on Wise to show the payments were properly authenticated. Despite our requests, Wise hasn't provided any information to verify this.

Moreover, even if the payments were authenticated correctly (which generally means the business followed its own procedure, to try to ensure the payments were being made by the genuine consumer or someone with their authority, correctly) – that wouldn't be enough to deem the payments authorised. As the PSRs also cover, this depends on whether the Mr G consented to them.

Consent for a payment must be given in the form, and in accordance with the procedure, agreed between Mr G and Wise. In practical terms, that means if Mr G completed the agreed steps in order to allow a payment to be taken, he would have consented to it. He can also consent to a payment by allowing a third party to complete these steps on his behalf.

Having considered the information provided, on balance, I'm persuaded Mr G didn't consent to these payments. He didn't complete the payments steps himself; that was done by the scammer. Nor did he authorise them to do this on his behalf.

While the scammer did manage to get access to the account in order to be able to complete the payment steps – I accept it's likely this was done through deception. Namely, by tricking Mr G into downloading and using remote access software under false pretences.

I'm therefore satisfied the payments were unauthorised. Under the PSRs, that means Wise would generally be liable for them. But it might have grounds not to refund Mr G if he failed with intent or gross negligence to comply with the terms of the account regarding use of a payment instrument, or otherwise failed to keep his personalised security credentials safe – *and* that failure allowed the unauthorised payments to be made.

As above, we don't have much information from Wise to clarify its position on this point, or to support the stance it has taken. But in its final response, it did say Mr G failed to comply with its terms and conditions. It pointed to terms which said he must not disclose his login credentials or 2FA details to anyone; must not allow anyone access to his account; and must not allow anyone to watch him accessing it.

However, I've seen no suggestion that Mr G *intentionally* failed to comply with his obligations. He didn't realise the scammer would be able to see his login details or otherwise access his account. Nor am I persuaded that he failed with gross negligence to meet these obligations.

The bar for gross negligence is a high one. It would generally involve showing complete disregard of an identified or obvious risk, or a very significant degree of carelessness.

Thinking about the circumstances Mr G found himself in, I can understand why he took the action he did. It sounds likely the scammer did have real information about Mr G's Amazon account, to help convince him he was genuinely speaking to Amazon. On that basis, and bearing in mind the pressured situation the scammer had orchestrated, I can understand why he was persuaded that he needed to follow the caller's instructions in the way he did. I don't think his actions fell so far below what a reasonable person would do, in the specifics of the situation that he found himself in, that he was grossly negligent.

Overall, I'm persuaded Wise (rather than Mr G) is liable for the disputed payments in line with its obligations under the PSRs. I therefore consider it fair to direct Wise to refund Mr G for these payments – along with interest to compensate him for the loss of use of the funds.

### **My final decision**

For the reasons given above, my final decision is that I uphold this complaint. To put things right, Wise Payments Limited must refund Mr G for the disputed payments (less any amounts already refunded or recovered). And it should pay 8% simple interest per year on this amount, less any tax lawfully deductible, running from the date of the disputed payments to the date of settlement.

Wise Payments Limited must pay the compensation within 28 days of the date on which we tell it Mr G accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 April 2024.

Rachel Loughlin  
**Ombudsman**