

## The complaint

Mrs B complains that Wise Payments Limited trading as Wise have failed to refund money she lost as part of a bank impersonation scam.

## What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. Instead, I will provide a brief summary and focus on giving the reasons for my decision.

In January 2023, Mrs B says she received a call from someone who, at the time, she believed was calling from her bank – 'S'. They told Mrs B there had been fraudulent activity on her account, and that her other bank accounts may be at risk. Ultimately this resulted in Mrs B transferring money to her Wise account for safe keeping. Three debit card payments totalling just over £5,000 were made from her Wise account. Mrs B says she didn't consent to any payments leaving her Wise account.

Wise didn't agree. It said Mrs B had authorised the payments. The matter was referred to our service. Our Investigator didn't uphold the complaint. To summarise, he concluded as there had been no failure by Wise which had resulted in a loss to Mrs B, it didn't need to do anything further to resolve this complaint. Mrs B did not accept the Investigator's assessment and asked that an Ombudsman review the case.

The case was passed to me. I spoke to Mrs B to explain things and to see if she was open to resolving matters informally. Mrs B asked for a written decision.

On 15 February 2024 I issued my provisional decision. I said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."*

*Having reviewed the case file I can see that we've never clearly set out in writing, our reasoning, for treating the disputed payments as 'authorised'. And when I spoke to Mrs B, she explained, receiving things in writing helped her process information. So, in these circumstances I felt it would be appropriate for me to issue a provisional decision first, to provide both parties an opportunity to comment before finalising my decision.*

*Mrs B says the payments leaving her Wise account were taken without her knowledge or consent. So the first thing I need to decide is whether, on balance, I think she authorised the disputed payments.*

*In line with the Payment Services Regulations 2017 (PSRs), broadly speaking, Mrs B is responsible for any payments that she has authorised, and she isn't responsible for unauthorised payments. The PSRs explain that authorisation depends on whether the payment transaction was authenticated correctly and whether the consumer consented to it.*

*There doesn't appear to be any dispute over whether the payment transactions were properly authenticated – Mrs B has told us she'd shared her card details and had logged onto her Wise account to confirm the payments, albeit she says she did so under the belief that she was "earmarking" the money so that it could be successfully returned, when the time came, to the account from where it was sent. Mrs B says she was not aware funds were being removed from her account.*

*Having carefully considered everything provided by both parties it's hard to say Mrs B wouldn't have known that payments were being made from her account. On that basis I'm going to treat these as authorised payments. I say this for the following reasons:*

- *I can see Mrs B has used her Wise card to make payments before, so whilst I've not seen evidence of it, she may have followed similar steps when authorising those payments. But even if she hasn't, Mrs B has described the steps she was taken through in quite some detail as part of the alleged scam, which started with her receiving a call from one of her banks – 'S' saying that there had been fraudulent activity on her account. She was asked to access her account through the app and reject a pending card payment authorisation request. So I can't say that Mrs B wasn't aware of card payments requiring approval in this way (albeit I acknowledge this was a different financial firm).*
- *The evidence Wise have shared shows that the transactional activity took place between 7.31pm and 8.21pm. It has provided screenshots of its system records which confirm that at around 7.44pm which was between the disputed payments (after a card payment for around £3,300 had declined due to the transaction limit being exceeded) the card payment limit was increased. This would've required Mrs B to have changed this from the card tab in her app. It's difficult to explain why she would've needed to do this, and why she didn't question this, if her belief at the time was that no payments were leaving her account.*
- *Mrs B's testimony is "...a 'code name' and corresponding amount of money was given which matched the amount and code name that then appeared in my online account and I clicked to confirm that this was consistent with what I had been told." She has explained she didn't question this as the alleged scammer had already taken her through the same process earlier in the call for what at the time, she believed was fraudulent activity on one of her other accounts, which was held with 'N'. She says she was told that the money needed "earmarking" and to do this, the alleged scammer provided her with an amount that corresponded to portions of the total transferred - and a 'code name'. Wise have not shared an example of what Mrs B would've seen on her app, but generally a 3D Secure push notification would ask the cardholder to approve a payment. So whilst I'm not doubting what Mrs B is saying I think it would've been clear from the notification that it was to approve a payment.*

*Taking all the above together, I think, on balance, Mrs B most likely did know that payments were being made from her account.*

*I appreciate from what Mrs B has described; she was in a high-pressure situation. She says she was made to believe all her money was at risk of theft and she needed to act quickly to protect it. But given the evidence here, even taking this into consideration, I don't find it plausible that Mrs B didn't know payments were leaving her account.*

*Wise would generally be expected to process payments a customer authorises it to make. But this doesn't mean Wise shouldn't still have been on the lookout for unusual or suspicious activity.*

*Mrs B says Wise could've done more to prevent her money being lost, especially since one payment transaction declined, and was then successfully made using new card details, which she says she was manipulated into setting up and sharing with the "scammer". She believes the disputed payments were not in keeping with how her account had previously been used. She argues these were suspicious in nature and should have flagged as unusual activity. I've taken on board the points Mrs B makes for why she thinks the account activity ought to have concerned Wise. But having carefully considered everything, I don't think Wise's actions when processing the payments were unreasonable. I say this because:*

- *The operation of Mrs B's Wise account wasn't like a regular bank account. It was used on an ad hoc basis, where funds were transferred into the account and then spent. It isn't particularly uncommon for users of an electronic money institute (EMI) account, like this one, to use their account in this way. So in the context of Mrs B's previous account usage, the pattern itself was not different – in that funds were transferred in and then spent.*
- *Wise has confirmed the disputed card payments were 3D Secure approved (via push notifications sent to Mrs B's registered device).*
- *Wise says it had also taken steps to verify Mrs B's identity through biometric confirmation on 13 January 2023 at 8.15pm. This was before processing the last disputed payment.*
- *The Investigator, in their assessment said, the payments to one of the merchants – 'M' was to fund the purchase of crypto assets. But I haven't seen any evidence to support that this was the case, nor anything that suggests that Wise at the time of processing these were aware of any such information that ought to have given them a cause for concern.*
- *Mrs B didn't speak to Wise at the time of making the payments, so I don't think it missed an opportunity to prevent her loss in this way either.*

*It's not practical, nor realistic, to expect Wise to stop and check every payment leaving its customer's account. There's a balance to be struck between identifying activity that could potentially be fraudulent, and minimising disruption to legitimate payments. It's also not fair, when reaching my conclusions about the reasonableness of Wise's actions, that I do so with the benefit of hindsight. With that in mind, I've thought about whether the checks and balances Wise had in place, at the time, were proportionate to the risks. And while I agree that the payments were larger than those which Mrs B had made in the prior 12 months. Taking all the above into account, in the circumstances of this complaint, I'm not persuaded that they were sufficiently unusual and/or suspicious where I could fairly and reasonably say that I'd have expected Wise to have done more than it did before processing them.*

*I've also thought about whether Wise could have done more to recover the funds after Mrs B reported the fraud, as in some circumstances the money can be recovered via the payment service provider raising a chargeback dispute. However, in these circumstances, Mrs B's debit card(s) were used to pay legitimate financial firms. So, she wouldn't likely be able to make a successful chargeback claim in these circumstances because the companies she paid had provided the services as intended. Therefore, I do not think Wise were under any obligation to raise a chargeback for Mrs B either. However, despite this, I note Wise did, on a best endeavours basis, try to assist Mrs B with the recovery of her funds by contacting the merchants. One merchant responded to say no funds remained, and it appears the other did not respond. I've also not seen any evidence that persuades me that even if Wise had attempted recovery sooner it would have resulted in it being able to recover any of Mrs B's funds. In fact, on balance, I don't think it would have done. I say this because a common feature of scams of this nature is that the fraudulently obtained funds are often quickly dispersed for maximum gain.*

*I note Mrs B has pointed out the difficulties she experienced in trying to report the fraud (i.e., out of hours accessibility and lack of action after she'd marked the payments as fraudulent through the app). I appreciate, in circumstances such as these, where Mrs B says she's fallen victim to an impersonation scam, being able to speak to someone sooner would've been ideal. But I'm not persuaded that not being able to do so was the cause of Mrs B's loss, nor that it impacted what could've been recovered.*

*I appreciate my intended decision will likely come as a disappointment to Mrs B, and I'm sorry to hear she has been the victim of a cruel scam. However, I'm not persuaded that Wise can fairly or reasonably be held liable for her loss in these circumstances.*

*My provisional decision*

*For the reasons outlined above, but subject to any further information I receive from either Mrs B or Wise Payments Limited, I'm not intending to uphold this complaint."*

Now that both parties have had an opportunity to comment, I can go ahead with my final 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.

As neither party has made any further comments or provided further evidence for me to consider, I see no reason to deviate from the conclusions I reached in my provisional decision.

Again, I'm sorry Mrs B has lost money as a result of a scam. But for the reasons set out above I can't fairly and reasonably ask Wise to refund these.

### **My final decision**

My final decision is that I don't uphold this complaint.

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

Sonal Matharu

**Ombudsman**