

The complaint

Ms P complains that Wise Payments Limited has declined to refund payments she says she didn't make or allow anyone else to make.

What happened

Ms P has raised a number of fraud claims, so for clarity I'm only considering here her complaint about four disputed payments made via Apple Pay on 10 January 2023 totalling just under £2,000.

Ms P says that she fell victim to phishing scams and that she thinks her Apple ID has been compromised. She recalls receiving a call from someone impersonating Wise who undertook an ID check, as part of this she shared her card number and some security codes thinking they were being used to verify her. Ms P doesn't think she confirmed any payments in-app or knowingly set up the Apple Pay used to make the disputed payments. Ms P received a number of pop-ups on her phone, but she recalls selecting no when she was asked to approve a transaction.

Wise declined to provide Ms P with a refund. It said the Apple Pay used to make the disputed payments was set up on 2 December 2022, and that Ms P hadn't disputed a payment made for £40 that day. Wise added that Ms P's card had been unfrozen in the Wise app shortly before the disputed payments.

Ms P says she didn't notice the £40 payment (referenced above) but that this wasn't authorised either. However, this payment doesn't form part of this complaint. There was a large amount of fraud on her account, and she missed this payment. Ms P says she contacted Revolut for help when she thought her Apple ID had been compromised and she has taken steps to protect her account like changing her password.

When Ms P referred her complaint to our service the investigator didn't uphold the complaint. In summary they thought Wise had been fair to treat the payments as authorised. Ms P didn't agree, she said (in addition to points covered above) that she'd had a lot of problems with her card and froze it to protect herself but had needed to unfreeze it on occasion to make payments.

The matter was passed to me for consideration by an ombudsman and I asked for further information. Wise has provided more detailed evidence about the different Apple Pay's linked to Ms P's account. But it has only provided limited information about Ms P's device's involvement – particularly in relation to setting up the Apple Pay on different devices and access to Ms P's Wise app. In December 2023 I let Wise know that without the further evidence I had requested I wasn't satisfied that it had fairly declined her claim. Wise didn't respond or provide further evidence.

I issued my provisional decision on 1 March 2024 explaining why I intended on upholding the complaint. In summary I explained why, on the evidence available, I didn't think Wise had acted fairly in concluding Ms P had authorised the disputed payments. I also set out why I thought it would be fair for Wise to provide Ms P with a refund.

Ms P accepted my provisional decision. Wise didn't respond by the deadline set; our service is aware that Wise is currently receiving our correspondence but not routinely acknowledging receipt. Wise has been informed our service will continue to progress cases where we can if a response is not received by the deadline provided.

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 received no further information, my findings remain the same as set out in my provisional decision and I'm upholding this complaint. As I've said, I don't have all the evidence that I've asked for, and given the deadlines provided to receive this by have passed I've needed to reach a finding based on the information available.

The relevant applicable law here is the Payment Services Regulations 2017. Broadly speaking, the starting point is that a customer isn't liable for payments they didn't authorise. There are exceptions to this which I'll go onto later.

Has Wise acted fairly in concluding that Ms P authorised the payments?

I don't currently think Wise has shown it acted fairly in concluding Ms P authorised the disputed transactions for the following reasons:

- Ms P says she didn't knowingly set up Apple Pay on the device used for the disputed payments or consent to those payments.
- The evidence provided by Wise shows that Ms P's Apple Pay was set up "via application" on 2 December 2022. The only device used that day hadn't been used before, and Wise hasn't shown me the technical evidence requested for me to see how a new device was used to log into Ms P's Wise App or why it thinks this device is linked to Ms P.
- On 10 January 2023 Ms P's card was unfrozen enabling the disputed payments using a new device. So, again it isn't clear why Wise thinks this was Ms P. But even if it was, it's possible she unfroze the account for an unrelated payment and a fraudster took advantage of this window.
- Ms P has confirmed her Apple ID was compromised and this could be how her emails were accessed. She's also explained that she was the victim of a phishing scam which may explain how a third-party fraudster was able to access the information needed to set up Apple Pay.
- I've asked Wise for evidence linking Ms P's device to the access of her Wise app enabling the Apple Pay to be set up but it hasn't provided this. So based on the information available I find Ms P's version of events plausible.
- Ms P has shown that she took steps to engage with Wise, replace her card and protect her account when she became aware of fraud on her account. In this context, I find her explanation plausible that due to the quantity of fraudulent activity on her account she couldn't keep track of what she'd reported.
- In the circumstances, it's also possible that the reason for the delay in utilising her funds between the 2 December 2022 and 10 January 2023 was linked to available funds or her card being frozen.

- It isn't for a customer to identify exactly how a fraud has taken place and it appears Wise didn't recommend that she disconnect her Apple ID from her Wise account until after the disputed transactions took place.
- There is other evidence that appears suspicious on the face of it and therefore consistent with the involvement of third-party fraudsters. For example, one new device was being used by two other usernames. Again, Wise hasn't provided me with the clarify requested in relation to this.
- So, on the evidence available I'm not persuaded that Wise has acted fairly in concluding that Ms P authorised the disputed payments.

Is there any other reason why it would be fair for Wise not to provide Ms P with a refund?

As I touched on above, there are exceptions which if applicable would mean that Wise isn't required to provide Ms P with a refund. Having considered these, I still think it would be fair for Wise refund the disputed payments. I'll explain why.

- Of relevance here is the obligation on Ms P to keep her secure information safe – Ms P can be held liable if she fails in this obligation with intent or gross negligence. This is reflected in the applicable terms and conditions of Ms P's account.
- Ms P says that she received a call from someone she now believes was impersonating Wise, and that she shared her card number and some codes as part of verifying herself.
- I don't have a copy of the messages these codes were sent with, or whether these were used to set up Apple Pay or access Ms P's Wise app. Given the time that's passed Ms P can't remember exactly what she shared, but she is sure that she didn't approve anything in her Wise app at the time. This is consistent with only a new device being used on both the 2 December 2022 and 10 January 2023.
- Based on this, and the sophisticated techniques fraudsters are known to apply in phishing calls like the one described by Ms P, I don't think the steps Ms P has taken reasonably amounts to gross negligence or intent. This is because she didn't share any secure information deliberately, she thought she was passing security with her payment provider. Gross negligence goes beyond ordinary carelessness, and I don't think what Ms P has described amounts to seriously disregarding an obvious risk. I note Wise hasn't said that it does think Ms P failed in her obligations with intent or gross negligence when given the opportunity to do so.
- I'm conscious that another potentially relevant factor would be if Wise considered that Ms P had acted fraudulently in the circumstances. Wise hasn't provided evidence to support that being the case, and I don't think the presence of other fraud claims is sufficient to draw such a conclusion in the circumstances. I therefore don't think that would be a fair reason not to provide a refund to Ms P in the circumstances.

So, for the reasons explained I don't think Wise has fairly declined Ms P's request for a refund of the disputed payments.

My final decision

My final decision is that I uphold this complaint and that Wise Payments Limited should:

1. Reimburse the disputed transactions to Ms P.

2. Apply simple interest per year at a rate of 8% on this amount from the date of the payments to the date of settlement and pay this to Ms P.

If Wise Payments Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms P how much it's taken off. It should also give Ms P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 17 April 2024.

Stephanie Mitchell
Ombudsman