

The complaint

Miss O is unhappy Wise Payments Limited (trading as Wise) hasn't reimbursed her for the money she lost when she fell victim to a scam.

What happened

Miss O was contacted by an individual claiming to be from her main bank account provider (which I'll call 'L'). She was told that her accounts with L and with others were at risk and that she needed to take steps to help L identify fraudulent payments which had been attempted from her accounts. Unfortunately, and unknown to her at the time, Miss O was actually speaking with fraudsters.

Believing that she was genuinely dealing with a legitimate banking institution, Miss O ended up moving significant funds from her account with L into her Wise account. From there, Miss O made 10 payments in around three hours to the beneficiary account details provided by the scammer. In total, Miss O transferred £79,000 to the scammer.

After several hours on the phone with the scammer, the phone cut out and Miss O says she finally had some time to think, it's at this stage that she realised she had been the victim of a scam. She immediately reported the matter to Wise to see if it could help stop the payments or recover her funds. Wise logged the fraud but ultimately told Miss O that it wouldn't be reimbursing her for the payments she had made from her account. Wise explained it felt it had provided adequate warnings before allowing the payments to go through.

Unhappy, Miss O referred the matter to our service. One of our Investigators looked into the complaint. Overall, they considered that while Miss O had authorised the transfers (albeit as a result of a scam) Wise should have done more to intervene on the fourth transfer. They felt Wise should have contacted Miss O directly, rather than relying on the written warnings it had provided. It was our Investigator's view that, had Wise done so, it was more likely than not the scam would've unravelled, and the loss would've been prevented. Our investigator also found that Miss O's main bank account provider – L – should bear some responsibility for the loss and that Miss O also had a role to play as they considered there was an element of contributory negligence in her actions.

Our Investigator therefore recommended that responsibility for the loss be split three ways between Wise, L and Miss O. So, they recommended that Wise refund 33% of Miss O's losses from the fourth transfer onwards, plus 8% interest. They also noted that Wise had offered to pay Miss O £150 to recognise issues in how it had handled her claim, the investigator felt this was reasonable compensation.

Wise ultimately accepted the investigators findings, but Miss O disagreed. She maintains that she did all she could to protect herself, and that the nature of the scam and her own personal characteristics meant she could not have done more. She does not consider it is fair for the refund to be reduced to recognise any contributory negligence on her part.

I issued my provisional decision on this case on 1 August 2024, explaining why I did not feel it was fair for Miss O to be held partially responsible for her loss. Miss O accepted my provisional decision, Wise said it had no further comments to make.

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.

In my provisional decision I explained the following:

"It's not disputed that Miss O authorised the payments that are the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Miss O is responsible for them. That remains the case even though Miss O was the unfortunate victim of a scam.

However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Wise should fairly and reasonably:

- *Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.*
- *Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.*
- *In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.*

Taking the above into consideration, I need to decide whether Wise acted fairly and reasonably in its dealings with Miss O, or whether it should have done more than it did.

Wise has already agreed with our investigator's findings that it should have done more to intervene from the fourth payment Miss O made onwards. And I am also satisfied that it should have intervened directly at that stage and that, had it done so, it is likely that the scam would have been uncovered. So, I think Wise could have prevented the losses Miss O incurred from the fourth payment onwards and it follows that I think Wise should bear some responsibility for that loss.

The question then is whether it is reasonable for Miss O to also bear some responsibility for her loss. I've thought very carefully about this, and I'm satisfied that the actions Miss O took here were reasonable, so I don't think the redress Wise must pay should be reduced to reflect any contributory negligence on her part.

I say this because I am satisfied that Miss O genuinely believed she was acting on the instructions of a legitimate banking institution, and took steps to check that she was dealing

with a legitimate representative of that institution. The scammers appear to have very closely spoofed a phone number associated with L. The scammers also knew details of attempted payments from Miss O's account with L which matched up with payments she could see, and the names of payees on her account. And I note that during her extended and highly pressured conversations with the scammers Miss O did ask how they could prove they were legitimately calling from L and questioned some of the things she was being asked to do, and the scammers appear to have been able to provide reasonable and believable explanations to all of her concerns. All the actions Miss O subsequently took must be seen in that context – i.e. that she sincerely believed she was following the instructions of L's fraud team, who had told her that they were working with Wise to protect her money.

We also know from experience that in cases like this the scammer will tend to try to prevent the consumer from pausing to think, and will also try to create a panicked state of mind in the consumer. In light of the particular health concerns Miss O has told us about, I think this situation would have been even more difficult for her to navigate but she nonetheless did take steps to question what she was being asked to do. Given this background, and the enormous pressure Miss O was under to do what she was told by the scammers to 'keep her money safe', I can see why she took the actions she did. So, I don't think she was partly to blame for what happened. It follows that I don't consider it fair to say Miss O should bear responsibility for some of the loss here.

So, in summary, I am currently intending to find that when Miss O made the fourth transfer, Wise could have done more to protect her from the risk of financial harm. Had Wise contacted Miss O directly and asked some open questions about what was happening, I'm persuaded it is more likely than not the scam would have come to light, and Miss O wouldn't have lost out on the £52,000 she went on to transfer. But I do not consider it is fair to say Miss O was negligent in how she behaved, so I won't be making any reduction in the redress due to contributory negligence.

I've also thought about L's role here, and consider it should be held jointly responsible with Wise for the loss that Miss O has experienced. So, I intend to find that Wise should refund 50% of Miss O's loss from the fourth payment onwards, plus interest, with the remainder of her loss being refunded by L."

As Miss O has accepted my provisional findings, and Wise has said nothing to change my opinion on what a fair resolution to this case would be, my findings remain unchanged to those set out in my provisional decision.

Putting things right

To resolve this complaint Wise Payments Limited (trading as Wise) should:

- Refund 50% of Miss O's loss from the fourth payment onwards (representing a refund of £26,000)
- Pay 8% interest on this refund from the date of each payment to the date of settlement.
- Pay the £150 compensation it has offered if it has not already done so.

My final decision

I uphold this complaint. Wise Payments Limited (trading as Wise) should now put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 19 September 2024.

Sophie Mitchell
Ombudsman