

## The complaint

Mrs K complains that Wise Payments Limited (Wise) won't refund money she lost in an impersonation scam.

## What happened

*What Mrs K says:*

Mrs K was new to living and working in the UK. On 5 July 2023, she got a phone call from someone who said they were calling from the London Central Criminal Court. The caller said Mrs K was under investigation as she owed tax. They said she needed to verify her income otherwise she would be arrested and have to pay a fine of £25,000. She was asked to move money into another account to show her income.

The fraudsters provided step by step instructions as to how to send the money – Mrs K was told it would then be returned to her. She believed the money was being sent to an account in her name.

Mrs K believed the scam was genuine as she checked the number they called from – and it was the London Criminal Court number.

The scammers knew her name; that she was self-employed and that she had UK bank accounts. They spoke very quickly and created confusion – she was terrified she would be arrested and have to pay the fine. The conversation lasted two and a half hours.

**(continued)**

Mrs K was tricked into making the following payments:

	Date	Payment	Amount
1	5 July 2023	Faster payment to account in Mrs K's name	£33.68

2	5 July 2023	Faster payment to account in Mrs K's name	£3,917.16 (from USD account)
3	5 July 2023	Faster payment to account in Mrs K's name	£2,037.84 (from USD account)
4	5 July 2023	Faster payment to another named account	£3,920.22 (from Euro account)
<b>Total</b>			<b>£9,908.90</b>

After the call ended, Mrs K realised she had been scammed and she contacted Wise at 3pm on the same day.

Mrs K says she was vulnerable and susceptible to such a scam as she wasn't aware of the procedures of HMRC in the UK; or that such a call was unusual. She had only been self-employed in the UK for a few months and wasn't knowledgeable about UK tax and the justice system.

She isn't a native English speaker and so found it difficult to understand what the scammers were saying – so she wasn't able to see the red flags that may have arisen.

Mrs K says the payments were out of character and Wise should've seen this and stopped them. The largest payment made in the last 12 months was £700. Yet, in the space of two hours – she made several large payments and to a new payee. The account was almost drained of funds.

Mrs K says that if Wise had intervened, the bank would have quickly seen this as a scam; and she wouldn't have lost the money. She says Wise should refund the money she's lost, plus interest at 8% per annum simple.

#### *What Wise said:*

Wise said they weren't responsible for Mrs K's losses. They said:

- The bank's terms and conditions said they aren't liable for losses.
- The payments weren't out of character for Mrs K to make. So, the bank wouldn't have been expected to have detected there was anything unusual about them.
- When Mrs K set up the first payee, Wise sent a warning that the name didn't match the owner of that account. Mrs K then confirmed she wanted to proceed, despite the warning.
- Because Wise took longer than expected to respond to Mrs K's complaint, they offered £50 in compensation.

**(continued)**

#### *Our investigation so far:*

Mrs K brought her case to us. Our investigator upheld it. She said:

- The first payment was for a low amount and we would not have expected Wise to

- stop it. The COP (Confirmation of Payee) test failed.
- The payments from the USD and EUR account were higher than normal compared to Mrs K's account activity.
- And on 5 July 2023, this meant Mrs K had made three large value payments in quick succession, and to a new payee.
- So, she said Wise should've intervened and contacted Mrs K. If they had done, it was likely the scam would've been prevented – as this type of HMRC scam was a common one and well known.
- But, our investigator said Mrs K should contribute 50% of her losses as:
  - o A random phone call for outstanding taxes (when Mrs K had just moved to the UK) wasn't plausible.
  - o When Mrs K reported the scam to Wise, she said she was told she owed tax of £2,000, so it wasn't clear why she then paid more.
  - o Mrs K was on the phone to the scammers for two and a half hours - and so had time during it to think about what was happening before sending the money – even though she was put under pressure during the call.

So, our investigator said Wise should refund 50% of payments two, three and four, plus interest at 8% per annum.

Mrs K accepted this, but Wise didn't. The bank said:

- The payments weren't unusual. Mrs K had made large payments in the past - £5,000, EUR4,000 and USD3,000 – in June 2022, September 2022 and May 2023.
- It isn't unusual for Wise's customers to make payments to new recipients – Wise is a money remittance business and that's how customers use it.
- The COP test failed, but Mrs K still went ahead – so any intervention made by Wise would not have worked and she would've gone ahead anyway.
- Wise offered to refund 50% of the last two payments.

Our investigator said the offer from Wise wasn't acceptable and so Mrs K's complaint has come to me to make a final decision.

*I made a provisional decision which upheld Mrs K's complaint:*

I'm sorry to hear that Mrs K has lost money in a cruel scam. It's not in question that she authorised and consented to the payments in this case. So although she didn't intend for the money to go to a scammer, she is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. 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 banks are generally more familiar with than the average customer.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make 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.

I need to decide whether Wise acted fairly and reasonably in its dealings with Mrs K when she made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case as Wise hasn't signed up to the Code.

If the payments were of a sufficient size and were out of character with how Mrs K normally used her account – then we would expect Wise to have intervened and spoken to her about them.

There's a balance to be made: Wise has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. In this case, I think Wise acted reasonably in processing the first, low value payment for £33.68.

I looked at Mrs K's accounts to consider whether it's reasonable to have expected Wise to stop the fraudulent payments. I've considered what Wise have argued – but, on balance I'm persuaded the bank should have done so.

On Mrs K's USD account, there had been only two payments since the beginning of 2023 – one for USD1,300 in January 2023, and one for USD3,000 on 2 May 2023. I don't think that two payments in a period of five months (and the last one was two months before the scam payments) means that it was normal for Mrs K to make large payments such as those made on 5 July 2023.

On Mrs K's EUR account, I can see two payments in 2023 up to the scam: one for EUR2,000 on 23 March 2023 and one for EUR1,400 on 2 May 2023 – again, these were a long time before the scam payments and so I think it is reasonable to say that Mrs K did not make large and frequent payments.

And – when the scam took place, four payments were made in quick succession, and to a new payee. Both the USD and EUR were drained of funds, other than a few cents. This was a sign a scam was taking place. So, (despite what Wise have argued) I think it's reasonable to have expected Wise to have seen this, held the payments and contacted Mrs K.

Wise was the expert in such matters and if they'd intervened, we would have expected them to ask open questions such as:

- Why are you making the payment?
- Who to?
- For what purpose?
- How were you contacted?
- Where did the money come from that you're sending?
- How were you given the bank account details where the money is to be paid to?

Wise would've found out that Mrs K had been contacted 'out of the blue' on the phone and seen this was a common scam - which the bank would've been well aware of. The scam would've been uncovered and payments would likely have been stopped.

*Contributory Negligence:*

But that's not the end of the story here. I also considered whether Mrs K could've done more to protect herself and whether she should therefore reasonably share some of her losses. In thinking about this - we apply a test of what we would expect a reasonable person to do in the circumstances. And I agree she should bear some of her losses. I say that as:

- Even accepting that Mrs K had recently moved to the UK, was put under a lot of pressure by the scammers, and wasn't speaking in her first language, a random phone call for outstanding taxes wasn't plausible.
- When Mrs K reported the scam to Wise, she said she was told she owed tax of £2,000, so it wasn't clear why she then paid more.
- Mrs K was on the phone to the scammers for two and a half hours – and I think it's reasonable that she could've stepped back and thought about what was going on during that time.
- As Wise have said, the COP test failed but Mrs K still went ahead with the payments – but this should've been a red flag to her that something wasn't right or caused her to call Wise to check things out.

Therefore, I think it is reasonable that Mrs K shares 50% of her losses with Wise.

*Recovery:*

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Wise took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. Mrs K reported the scam to Wise immediately on 5 July 2023. I can see that Wise then contacted the recipient bank – who said on 19 July 2023 - there were no funds to be paid back.

I haven't seen the evidence of when Wise started the recovery process – we expect this to happen within an hour or two from when it was reported on 5 July 2023. We asked Wise about this and they showed us they attempted recovery on 18 July 2023.

We expect to see recovery attempt made immediately a scam is reported, and certainly within 24 hours. So here, Wise didn't act quickly enough. We don't know if any funds could have been recovered as Wise contacted the recipient bank too late. Our experience of such scams suggests this was unlikely - as in most cases, the money is removed immediately by the scammers. So, I am not asking Wise to refund any more money to Mrs K because of this.

But because Wise were slow to attempt recovery, I think it is reasonable to ask the firm to pay compensation of £200. **(continued)**

*Responses to the provisional decision:*

Both Mrs K and Wise accepted the provisional 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 both Mrs K and Wise accepted the provisional decision my final decision is unchanged from it. And so Wise must do what it proposed.

### **My final decision**

I uphold this complaint. Wise Payments Limited must:

- Refund 50% of payments two, three and four in the relevant USD/EUR currencies, plus interest at 8% per annum simple since the date of the payments to the date of settlement.
- Pay £250 for distress and inconvenience – being the £50 offered plus £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 12 February 2025.

Martin Lord  
**Ombudsman**