

## The complaint

Miss R complains that Guavapay trading as MyGuava ('MyGuava') declined to refund her money which she says she lost as a result of a scam.

## What happened

The circumstances of this complaint are well known to both parties so I will not go into every detail of what happened here. But, in summary, in around October 2024 Miss R was contacted by a recruiter over a well-known job website where Miss R had applied for numerous jobs. She spoke with them over Whatsapp and agreed to work for them. Miss R explained that she was to be paid £190 after completing her first day of work. After this, she was asked to pay funds towards 'packages' to enhance the money she would get paid. The company then told her that if she wanted to withdraw her funds, she had to pay 25% of the final income to ensure compliance with financial regulations, and that she had to pay tax to someone based internationally. She was encouraged to set up her MyGuava account to make these payments, which totalled £12,500. Shortly thereafter, Miss R realised she had fallen victim to a scam.

Miss R complained to her bank and to MyGuava. MyGuava declined to refund Miss R's losses. In short, it said it acted in accordance with its own terms and conditions – where they outlined that MyGuava provides payment services and does not act as a financial advisor or guarantor of third-party transactions. It said it did have robust fraud prevention rules, controls and monitoring systems in place to detect and prevent suspicious activity, but that in this case there was nothing which indicated Miss R was at risk of financial harm from fraud or scams. It also said that upon becoming aware of the scam, it did all that it could to prevent further potential misuse – including account closure.

Miss R escalated her concerns to our service. One of our investigators looked into what had happened and recommended that MyGuava refund part of Miss R's losses. They said that MyGuava should have recognised Miss R was at risk of financial harm from scams, and so should have intervened. They said that this would most likely have prevented the loss. They said that Miss R ought to bear some responsibility for the loss too – so MyGuava ought to pay 50% of the loss from the payment which should have triggered their response.

Miss R did not agree. She said that 50% of the funds was not acceptable as she had lost a lot of money.

MyGuava did not agree either. It said, in summary:

- that they had received a scam claim from her bank, which appeared to be created prior to her making payments to scammers from her MyGuava account.
- There were concerns she still had the claim open with her bank, and so could profit from the scam at a later stage.
- It did not agree that intervention would have uncovered the scam, as she would have told them the payments were going to HMRC.
- The payments were from her account to cards, rather than from one account to another. So they did not think that the rules that governed the return of fraudulent

funds applied here.

- The funds came from her bank account, rather than a series of third parties, so there was nothing to say that the payments should have flagged as suspicious.
- Miss R had been grossly negligent and so they should not refund any of her losses.

Our investigator clarified that Miss R's claim with her bank had been unsuccessful, and that there was no evidence she had made payments after she reported it to them. The payment that left her MyGuava account after she had recognised she had fallen victim to a scam was sending her remaining MyGuava funds back to her own account. They explained that if Miss R had said that she was paying HMRC, they would hope that MyGuava would recognise that she was most likely being scammed. She believed she was paying taxes in a completely different country, and further questioning about why she was paying taxes would likely have led to her discussing the 'job'. They also clarified their opinion on the case to Miss R. So, their opinion on the matter was not changed.

As no agreement could be reached, the case was passed to me to decide.

### **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.

I'd like to start by saying that I was so sorry to read of the circumstances which brought Miss R to our service. It is clear from reading the evidence she has provided, and the conversations she has had with our service, that this scam has had a profound impact on her.

In summary, the starting position at law is that an Electronic Money Institution (EMI) like MyGuava is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the relevant regulations (in this case the Payment Services Regulations 2017) and the terms and conditions of the customer's account.

In this case, there is no dispute that Miss R authorised the payments, even though she was tricked into doing so by the scammers. So, the starting position is that MyGuava is not liable for the transactions.

However, when considering the relevant rules, codes and best practice standards, there are some circumstances in which we think that businesses shouldn't have simply taken their customer's authorisation instruction at 'face value'. There are certain situations in which we think that businesses should have looked at the wider circumstances surrounding the transactions before making the payments.

MyGuava also has a duty to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customer's accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether MyGuava acted fairly and reasonably in its dealings with Miss R.

*Should MyGuava have recognised Miss R was at risk of fraud or financial harm, and if so, at which payment?*

I agree with our investigator that the payment of £1000 which Ms R made at 18:57 ought to have been recognised as unusual and out of character, and caused MyGuava to recognise

that Miss R was at risk of financial harm due to fraud or scams. I say this because Miss R had already made five payments which had totalled over £3,000 and the payment pace was speeding up – with three of the payments taking place within an hour. I do appreciate that this was a new account, but the amounts involved and the pattern of payments ought to have been cause for concern, even without a long history of transactions to compare this to.

#### *Could MyGuava have prevented Miss R's loss?*

I have seen nothing to suggest that Miss R was coached, or otherwise may have been incentivised to lie to MyGuava had they got in touch with her. Whilst her bank did intervene, the payment was going to an account in her own name via open banking, so they wanted to check that it was her making the payment. They asked some broad scam questions, but I do not think she said anything that indicates she was being dishonest here. So, I think it is more likely than not that Miss R would have been honest with MyGuava and told them that she was making the payments towards taxes or to get paid from her new job. The type of scam Miss R was falling victim to, sometimes known as a 'job scam', would have been well known in the financial services industry at the time. I agree with our investigator that had Miss R simply said she was paying HMRC, this should have alerted MyGuava to the fact she was falling victim to a scam as she was making international payments, and further questioning would have likely led her to speak of her job. What Miss R went through contained the common hallmarks of this scam, so I see no reason to believe that MyGuava would not have been able to uncover the scam if they asked proportionate and probing questions about the nature and purpose of the payments Miss R was making.

#### *Should MyGuava bear some responsibility for her loss?*

I have to consider whether Miss R should bear some responsibility for her losses, too. And having considered everything, I do think she contributed to her losses through negligence. I say this because there were things about the 'employment opportunity' which should have given her cause for concern. It would certainly be highly unusual for a job to require someone to pay them to complete their work. She was being offered a salary that should have seemed too good to be true - she was promised up to \$3000 per month plus commission for a job which did not require any training or expertise. I think considering these factors, Miss R ought to have done further research or spoken to a trusted third party, or simply not gone ahead with the payments at all. Had she done so, she could have prevented her own loss.

#### **Putting things right**

So, to put things right, I require MyGuava to refund 50% of Miss R's losses from the payment specified above, not including the final payment which Miss R sent back to her own bank account. They should also pay 8% simple interest from the date of the payments.

#### **My final decision**

I uphold this complaint in part, and require MyGuava to refund Miss R's losses, in part, as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 15 October 2025.

Katherine Jones  
**Ombudsman**