

## Complaint

Mrs D is unhappy that Wise Payments Limited (Wise) didn't do more to protect her when she was targeted by a scammer.

## Background

The background to this case is well known to the parties, so I don't intend to set out in full here. What follows is a brief summary of what happened. In August 2023, Mrs D fell victim to a scam. She received a telephone call from someone who claimed to be an employee of His Majesty's Revenue and Customs (HMRC). She was told that she had been found to have infringed several tax regulations. She had to pay a fine in connection with those infringements. Unfortunately, the person who had called her wasn't a genuine employee of HMRC, but a fraudster.

Mrs D was a relatively recent arrival in the UK. She was told that, if she paid these fines and an investigation found that she'd done nothing wrong, the funds would be returned to her. She was sent a formal document setting out the basis of this action. This document was designed to look like an official notification from HMRC. She was told that non-compliance could result in her going to prison.

She used her Wise account to make the following payments in connection with the scam:

1	£1,000
2	£756
3	£950
4	£998
5	£999
6	£991
7	£900
8	£898
9	£998
10	£902
11	£500

Once she realised she'd fallen victim to a scam, she notified Wise. It looked into things, but it didn't agree to reimburse her. Mrs D was unhappy with that and so she referred her

complaint to this service. It was looked at by an Investigator who upheld it. The Investigator said that Wise needed to be on the lookout for payments that were unusual or out of character and might have indicated a risk of fraud.

The Investigator thought Wise ought to have been concerned at the point of the third payment. It shouldn't have processed it without first contacting her to ensure that she wasn't at risk of financial harm. The Investigator also pointed out that Wise was expected to take reasonable steps to recover Mrs D's funds from the receiving bank, where possible. It hadn't provided any evidence that it had done this, and so she recommended it refund the first two payments as well.

Wise disagreed with the Investigator's view and so the complaint has been passed to me to consider.

## Findings

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

I issued my provisional findings on 26 April 2024. I wrote:

*In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account. However, that isn't the end of the story. Good industry practice required that Wise be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.*

*The Investigator thought that Wise ought to have taken action in response to the third payment and I'd agree with that conclusion. These payments were undoubtedly out of line with the typical usage of the account. In the months prior to the scam, the only outbound payments from her account were one payment for £1,000 which was around three months earlier and a monthly subscription of £9.99 to a music streaming service. The scam payments should've stood out against the other limited activity on her account.*

*Furthermore, the payments were made in quick succession – it appears that the first three took place in less than 30 minutes. It's also significant that the payment reason given by Mrs D varied between payments, even though the payee was apparently the same limited company. She told Wise that one payment was in connection with a bill, and then a subsequent one was a payment to family.*

*Taking all of these factors together, I think Wise ought to have recognised that there was an increased possibility that Mrs D had been targeted by a fraudster. I don't think it should have processed the third payment without first contacting her to satisfy itself that she wasn't at risk of financial harm due to fraud. If necessary, it could've delayed that payment to remove the risk of the fraudster pressuring her.*

*If it had made contact with her, I don't think it would've been particularly difficult for the scam to unravel. I think it's more likely than not that she'd have answered questions from Wise openly and honestly. And if she'd done so, it could've identified that she'd been targeted by a commonly occurring scam type and warned her that HMRC wouldn't carry out actions like this. If it had done so, that would've prevented her subsequent losses.*

*Wise has pointed out that it displayed warnings to Mrs D when she was making three of the payments. The first warning it displayed was in connection with payment 5. Mrs D says that she recalls seeing warnings, but not processing their contents on the grounds that she was so terrified of what she'd been told by the scammers. It's a common feature of scams like this one that the fraudsters will talk to their victim continuously to make it harder for them to take on board any warnings the firm is trying to communicate, and so I don't find it surprising that the warnings weren't impactful.*

*It also appears from the evidence that Wise submitted that, in respect of payment 5, Mrs D was asked "Are you being threatened with fines or jail time if you don't pay?" and that, because she responded affirmatively, she was warned that "Scammers will try to make you panic by threatening you with fines or jail time." In my view, once Wise had unearthed that Mrs D had been threatened with jail time, it shouldn't have processed the fifth payment at all.*

*I've also considered whether it would be fair and reasonable for Mrs D to bear any responsibility for her own losses here. In doing so, I've taken into account what the law says about contributory negligence but also kept in mind that I must decide this case based on what I consider to be fair and reasonable in all the circumstances. Having done so, I'm satisfied that she did act reasonably. The letter she was sent that was apparently from HMRC was relatively credible. In the cold light of day, it is possible to find clear signs that it isn't genuine. But Mrs D read the letter in the context of being in a state of severe stress at the potential consequences of not paying off this fine.*

*It's also significant that Mrs D hadn't been in the country for very long at the time and so wasn't so familiar with how law enforcement processes work. While some other people might have reacted with greater scepticism in the face of the scammer's claims, her background circumstances made her more likely to believe what she was told could be true.*

#### *Recovery of funds*

*The Investigator said that, unless Wise could show that it acted promptly in an attempt to recover Mrs D's funds from the receiving account, it should refund payments 1 and 2. Wise was expected, on learning that its customer had fallen victim to a scam, to notify the receiving bank promptly in an effort to recover any funds that remained in the account.*

*However, the bank that operates the receiving account has shared evidence with this service that shows that those funds were removed from the receiving account so quickly that it wouldn't have made any difference even if Wise had sent the notification immediately. Unfortunately, that means I won't be asking Wise to refund the first two payments.*

*For the reasons I've explained, I am currently minded to uphold this complaint and direct Wise to refund the payments 3-10.*

*£499 of the funds that Mrs D transferred were paid into her account by another scam victim. Since that isn't Mrs D's loss, I will ask Wise to deduct that from her refund. It should then add 8% simple interest per annum to the remaining sum calculated to run from 7 August 2023 until the date any settlement is paid.*

Mrs D reiterated her unhappiness with the way that Wise had handled things but didn't raise

any new arguments regarding the outcome I'd proposed. Wise didn't respond. As no new arguments have been raised, I don't see any reason to depart from the outcome set out above. I am therefore upholding the complaint for the same reasons as set out in my provisional decision.

### **Final decision**

For the reasons I've set out above, I uphold this complaint.

If Mrs D accepts my final decision, Wise Payments Limited should refund payments 3-10. £499 of the funds that Mrs D transferred were paid into her account by another scam victim. Since that isn't Mrs D's loss, Wise Payments Ltd should deduct that from her refund. It should then add 8% simple interest per annum to the remaining sum calculated to run from 7 August 2023 until the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 20 June 2024.

James Kimmitt  
**Ombudsman**