

The complaint

Mrs E has complained Wise Payments Limited did nothing to intervene and stop two payments she made as part of an auction scam.

What happened

Mrs E wanted to buy four rental properties that she found advertised online. These didn't sell at auction as Mrs E expected. She was then contacted by the supposed auction house to say these were being sold for slightly less than previously advertised.

Mrs E made four deposit payments of £9.400 from two different accounts she held. This complaint only deals with her complaint about Wise. The two Wise payments were made on 13 and 27 April 2023. The two other payments were made between this period on consecutive dates.

The owner of the properties was a named business, but Mrs E was instructed to send money to another business.

After Mrs E paid the deposits, she carried out appropriate searches. She discovered the properties she thought she was buying weren't being sold by the people she was paying and that she'd been a victim of a scam.

Mrs E believed Wise should have done more to intervene and protect her from the scam. They never responded to her complaint, so she brought this to the ombudsman service.

Our investigator received no evidence from Wise and in its absence, believed they should have done more. He felt that these were disproportionate payments for Mrs E to have made so Wise should have intervened straightaway. However, he felt that Mrs E's lack of due diligence meant that Wise should only refund half of her loss.

Mrs E accepted this outcome.

Wise disagreed. They provided evidence to show Mrs E's use of her account entailed high-value payments and that these two transactions wouldn't have made Wise intervene.

This complaint was referred to an ombudsman.

I completed a provisional decision on 9 September 2024. I believed the evidence provided by Wise did provide sufficient evidence that Mrs E's use of her account, for the two disputed payments, wouldn't have caused them to intervene. I said I wasn't intending to uphold Mrs E's complaint.

Wise provided no further comments. Mrs E's representative didn't agree with my provisional decision. They believed:

- The occasional larger transactions that Mrs E made using her Wise account were fundamentally different to the disputed transactions.

- Auction and property fraud was of a type that dictated payments were of this nature and felt that this type of fraud should have necessitated intervention by Wise.
- Wise had a valuable opportunity to protect Mrs E's losses.
- My statement that Mrs E was the victim of a cruel scam was at odds with other statements made by our service.

I now have all I need to complete my final 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.

Having done so, I've decided not to uphold Mrs E's complaint. I'll explain why. Where appropriate I have responded to Mrs E's representative's points within this decision.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

I don't dispute Mrs E was scammed and has lost a considerable amount of money. She has my sympathy about what she has gone through.

Mrs E's representative suggests I'm making a statement about all auction scams. I stress that I'm not. As they'll know already, my finding relates to the specific circumstances of Mrs E's case.

All parties agree Mrs E made and authorised two individual payments, both for £9,400, to the same payee. These transactions took place a fortnight apart.

There's also no dispute the transactions were authorised under the Payment Services Regulations 2017

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

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in 2023 that Wise should:

- have been monitoring accounts and any payments made or received to counter various risks, including 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 firms 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, or provided additional warnings, before processing a payment (as in practice Revolut sometimes does including card

payments);

- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

I don't believe that Wise ought to have recognised that these payments carried a heightened risk of financial harm from fraud. I say this because:

- These two payments were not unusual compared to the many transactions Mrs E made within her Wise account. Whilst many of those were other currency transactions, I'm satisfied these demonstrate that Mrs E made irregular payments of high value.
- Mrs E's representative has suggested that other transactions Mrs E made of a similar value should be regarded as sufficiently different from these two payments. But I don't agree. I appreciate their argument that many of her large-value payments were done by card to recognised merchants but there were also many individual payments as well which wouldn't have rung any alarm bells for Wise.
- These two transactions were to the same payee and completed the confirmation of payee process. The transactions were reasonably well spaced so wouldn't have resembled urgent fraudulent-like transactions. I'm not convinced they would immediately have alerted Wise to being similar to those of an auction scam. I say this because the other two transactions Mrs E made were on consecutive dates, so Mrs E's representatives point on this aspect does not provide sufficiently convincing evidence.
- Mrs E had held an account with Wise for eight years by the time of these transactions so had built up a history of account use which Wise could use to analyse her payment behaviour. This is part of my reasoning for why Wise wouldn't have identified these transactions as unusual.
- Wise admits that no warning was issued nor was Mrs E asked the reason for her payment. However, if they had done the latter, I believe Mrs E would most likely have confirmed she was buying goods and services and potentially have stated buying homes for rental. Unlike cryptocurrency scams, this would not necessarily have raised any alarm bells with Wise's automated system. This type of scam is less clear cut than other scams which financial institutions see.
- Between these two transactions Mrs E made the two other payments from another account she held so I've seen nothing to indicate she would have been dissuaded from making these payments.

Mrs E made three deposit payments before the final payment she made using Wise on 27 April. I believe she had plenty of time then to carry out research into the four properties she was buying but she did not.

I accept Mrs E was the victim of a cruel scam but taking all the circumstances into consideration, I don't believe it would be fair and reasonable to ask Wise to refund her, in full or in part.

My final decision

For the reasons given, my final decision is not to uphold Mrs E's complaint against Wise Payments Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 24 October 2024.

Sandra Quinn
Ombudsman