

## **The complaint**

Mr H complains that Western Union Payment Services GB Limited (Western Union) won't refund money he lost, after he fell victim to an Authorised Push Payment (APP) scam.

## **What happened**

The circumstances which led to this complaint are well-known to both parties and have been laid out in detail by our Investigator in their view, so I won't repeat them in detail here. But, in summary, I understand them to be as follows.

Mr H has said, in or around early 2021, he was looking to start up a business, the purpose of which was to buy commodities. He registered his interest with a company he found online and was approached about an opportunity to buy some product. Mr H has told us the company's website had a lot of information about the quality of the product it was selling and he was shown video's and photos, that he recognised as a well-known brand. Mr H believed he was dealing with a reputable company and so agreed to send money for what he thought was the purchase of the product, but unknown to him at the time he was communicating with fraudsters.

After making an initial payment, Mr H was told that further payments were needed to cover additional costs including insurance, port fees and container detention charges. Between February 2021 and June 2021, Mr H made several payments, totalling over £16,000 through Western Union. But I can see the actual loss from Western Union Payment Services GB Limited was less than this, as one of the payments complained about was refunded, one wasn't made by Mr H and another wasn't made through Western Union Payment Services GB Limited, but through a separate legal entity. The payments were sent to a number of different accounts, that were controlled by the fraudsters.

Mr H suspected he'd been scammed in September 2021, when the goods still hadn't arrived, so he raised the matter with Western Union. It looked into Mr H's complaint but didn't uphold it. In summary, it considered it had followed the correct procedures when progressing Mr H's payments. It added that it had provided him with the relevant information at the time he made each of the payments, which included warnings about fraud. As well as this Western Union said the recipients of the payments had all the requirements to be able to collect the payments.

Unhappy with Western Union's response, Mr H brought his complaint to our service and one of our Investigators looked into things, but our Investigator didn't uphold Mr H's complaint. In summary he didn't think the payments were unusual or suspicious enough for Western Union to have intervened.

Mr H didn't agree with our Investigator's view and maintained that the money he lost should be refunded to him. As agreement couldn't be reached, the complaint has now been passed to me for a 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a money transfer / payment service provider (in this case, Western Union) is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions.

It is the case that Mr H authorised the payments in dispute and that's accepted by all parties. And under the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr H is responsible for the payments. That remains the case even though Mr H was the unfortunate victim of a scam.

But there are times when, dependent on the payment, I might expect a payment service provider to question a transaction or payment, even though it may have been properly authorised. Broadly speaking, firms (like Western Union) have certain obligations to protect customers from fraud.

However, in order for me to recommend that Western Union should refund these payments, I need to be satisfied it should've had concerns, that *at the time* Mr H was making the payments, he might have been at risk of financial harm from fraud. I can't decide this with the benefit of hindsight, so although we now know that Mr H has sadly fallen victim to a scam, this isn't enough for me to order Western Union to refund him the money he has lost.

In this case, I need to decide whether Western Union acted fairly and reasonably in its dealings with Mr H when he made the payments, or whether it should have done more than it did. I've considered the payments that Mr H has made, but also I've considered that Western Union is primarily used for the purpose of sending payments, often in a particular currency, abroad. Payments are typically for friends and family members and payments can range from one-off low amounts, regular amounts weekly / monthly, or for larger amounts.

Payment Service Providers have a difficult balance to strike in fulfilling their obligation to process payments in line with their customer's instructions against identifying, and intervening in, potentially fraudulent payments. And this can often be finely balanced.

In the circumstances of this case, where Mr H has made payments abroad, I don't think there was anything so unusual or suspicious about this that reasonably ought to have enabled Western Union to have foreseen that he may have been at risk of falling victim to a fraud. I'm also not persuaded that the payments Mr H made were for such large amounts or in such an unusual sequence or frequency that they ought to have alerted Western Union.

It is also important to note that payment service providers, such as Western Union, aren't a bank or building society where there is an ongoing relationship between the parties which enables the monitoring of accounts in order to detect and possibly prevent the risk of financial harm when a payment is made. This can make it inherently more difficult for a business to identify that a customer is at risk of financial harm where there isn't a lot of historic usage. Here, there was minimal activity by Mr H, through Western Union, by which it could assess if the payments were unusual or out of character in comparison to any account history.

Western Union did provide Mr H with a digital fraud warning, prior to him making each of the payments. All things considered, I think this was proportionate in the circumstances of this case and I don't think there was enough going on that ought to have led Western Union to intervene or to do more than it did.

Finally, I've thought about the actions Western Union took once Mr H made it aware of the scam. Unfortunately, Western Union wasn't able to recover the funds as they had already been collected by the beneficiaries in the destination countries. So I don't think it missed an opportunity to recover the money that Mr H sadly lost.

It's very unfortunate Mr H has lost this money in this way, and I understand the whole experience has been deeply upsetting and I have a great deal of sympathy for him. But in the circumstances, I don't think I can fairly or reasonably say Western Union should have done more to prevent Mr H from losing this money.

### **My final decision**

For the reasons set out above, my final decision is that I don't uphold Mr H 's complaint against Western Union Payment Services GB Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 29 September 2023.

Stephen Wise  
**Ombudsman**