

The complaint

Mr H complains that Revolut Ltd has declined to refund him for payments he transferred when he fell victim to an investment scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mr H resides in Sweden. In late 2019, he found what appeared to be an investment opportunity with a trader I will refer to as C. He created an account with a cryptocurrency wallet provider (which I will refer to as L) to facilitate sending payments to C. Mr H also created an account with Revolut on 5 December 2019.

After some initial contact with C, he communicated with the trader via an instant messaging service. Mr H has provided screenshots showing some of this conversation. This includes a message he sent to C on 13 December 2019, in which he explained he'd been talking to his own bank (S) that same day. He explained that S was stopping his transactions to L and Revolut, and had told him that C was a scam, which was not permitted to trade in Sweden.

He further explained that he'd also spoken with the Swedish financial regulator which had similarly told him that C was not permitted to carry out business in Sweden, that he would not be able to recover any money from C, and that there was nothing to show that it wasn't simply a scam.

C assured Mr H that this wasn't true. Mr H was told by the scammer that the regulator and his bank were potentially acting against the law in attempting to stop him moving his money out of Sweden. He was told this might be linked to problems in Sweden's banking system.

Mr H was convinced and he was keen to pursue the trading opportunity. After some difficulties, he was able to transfer money from his account with S into his new Revolut account, and then transfer to his wallet account with L. From there he was able to transfer the funds to C.

The messages he was exchanging with C suggest the trading was not going well, and on 30 December 2019 he messaged C saying he was unhappy as trades appeared on his account with C that he hadn't authorised. He asked C to call him, saying "I have obviously been scammed". However, it appears Mr H may have been subsequently reassured because he continued to deal with C.

Mr H transferred multiple further payments via Revolut to L and then onto C, until a final payment in April 2020. At the end of May, Mr H reported this to Revolut as a scam. Revolut records the total loss Mr H reported as being the sum of 101,147 Euro.

Revolut noted that Mr H had been transferring the money via Revolut to Mr H's own account with L. It said the losses had actually only happened when he'd sent the funds onward from L to C. Revolut said it was therefore not liable to Mr H for the money he'd lost, and directed

him to raise the matter with L.

Mr H didn't accept this. He said that Revolut hadn't done enough to protect him. In particular, he said if it had given him a warning or questioned him when he was sending the payments this would have caused him to pause and look more closely into either L or C before proceeding. He said that a warning from Revolut about the risk of scams would have probably exposed the trader's false pretences and so caused him to stop trading.

Our investigator looked into Mr H's complaint. He sympathised with the situation Mr H was in. But he didn't think Revolut was liable to refund Mr H. He noted that Mr H had disregarded warnings about this being a scam during discussions with his bank S and the Swedish financial regulator before he'd made any of the payments via Revolut. So he didn't think a similar warning or intervention by Revolut would likely have made any difference, and that Mr H would have still taken steps to transfer the money to C.

Mr H didn't accept our investigator's view, so I have been asked to make a 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.

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 be good industry practice at the time.

Having done so, I have reached the same conclusions as those of the investigator.

I'm extremely sorry to hear about what happened to Mr H. I can understand entirely why he feels so strongly that his money should be returned to him, and why he doesn't accept that Revolut isn't responsible to refund him.

It's important to clearly acknowledge that Mr H has been the victim of a crime here. Mr H has explained about the significant impact this has had on him. He details how he was cruelly deceived by a scam that led him to believe he was investing his money and making significant profits. He's been left out of pocket by a significant sum as a result of this scam.

However, the main cause of these losses were the scammers who deceived Mr H. For me to say Revolut is liable in this type of situation, I would need to find that the bank could and should have acted to prevent the eventual loss, or that it failed to meet its obligations in some other way.

I accept that the payments he made out of his Revolut account were authorised transactions, even though Mr H was the victim of a sophisticated scam. He authorised the payments and under the Payment Services Regulations 2017 he is presumed liable for the loss in the first instance.

A voluntary code exists to provide additional protection against authorised push payment scams such as this (the Contingent Reimbursement Model Code – CRM Code). Revolut is not a signatory to this code. But even if it were, the CRM Code only applies to payments made directly to another person – payments made to a customer's own accounts aren't covered by the CRM Code. That means the CRM Code provisions are not relevant to Mr H's complaint – his payment instruction was to send money from Revolut to an account held in his own name at L.

But the CRM Code is not the full extent of the protections that could apply in cases such as this. 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 Revolut 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 payment service providers 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, 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.

Given this, I've thought carefully about Revolut's obligations in this specific set of circumstances. I must of course, take into account that Mr H was a new customer without previous activity for Revolut to compare his actions against. I've also taken into consideration the role Revolut had here – it wasn't the only financial institution involved. Rather, Mr H's Revolut account was one of the multiple steps taken from Mr H's originating bank accounts to the scammer.

On this point Revolut observes that the transfer from its account to Mr H's own account with L is not the point at which Mr H actually suffered a loss. The payments he made from Revolut to L were to an account he'd set up and controlled himself. The funds ostensibly remained under his control up to and including the point they were received in that account with L, and the loss didn't occur at least until the later transfer out of the account with L, and its receipt by C.

This argument implies that the losses occurred later than the transfer from Revolut, involved other financial institutions, and required further action by Mr H and possibly others. Now, I do not have the power to consider a complaint about L (or indeed about C or S). But of course, the fact that I only have the power to consider the complaint made about Revolut and not the other parties involved here does not mean I must necessarily find that it is Revolut which should bear liability for Mr H's losses.

Nonetheless, I have given careful consideration to whether Revolut should bear some responsibility for the eventual loss. As noted above, I am mindful that when Mr H made these payments, Revolut's duty extended beyond the initial obligation to make the payment in line with his instructions.

Mr H was making a sequence of large payments here to a new payee. Arguably, given the frequency and amount of these payments Revolut could have identified these as unusual. I think it would be fair to say that there was a risk, as with any other payments, that these might be fraudulent in nature. However, Revolut has explained why these appeared unremarkable in the context of the typical pattern of new account usage for this type of account. Significantly, this was a newly created account without a prior history against which to establish a different pattern of usage.

All things considered, I find the evidence is ambiguous as to whether there were sufficient grounds for Revolut to have had concerns here.

But in any event, I do not need to make a finding on that point – I do not consider it would have made a difference either way. Had Revolut intervened by contacting Mr H prior to processing one or more of the payments, I am not satisfied in this specific case that the scam would have been prevented.

I say this considering that when both the Swedish financial regulator and Mr H's bank S spoke to him and expressed concerns (variously that C was a scam, that C was not permitted to conduct any business in Sweden, and that he'd likely be unable to recover any money from C) the evidence shows Mr H acknowledged those concerns but was not stopped by them.

These discussions and warnings did not dissuade him from proceeding and Mr H took steps to find a way of still being able to make the payments he wanted to make. The message history shows he was cruelly deceived by the scammer into believing that the regulator and his bank S would do anything (including taking steps that weren't legal) to prevent him moving his money to C.

It seems to me that Mr H was already firmly under the scammer's spell by this point. He believed the scammer over what he was being told by his bank S and by the Swedish financial regulator.

In light of this, I don't think the provision even of a specific scam warning by Revolut would likely have prevented the eventual loss from occurring. Further I don't think any reasonable level of intervention by Revolut would have prevented the loss either. I wouldn't expect Revolut to have gone further than S or the Swedish regulator had already done.

I also don't think Revolut was in a position to know more than either S or the regulator about whether the ultimate destination of the money was legitimate or not. That was still at least one step removed from the payments made via Revolut.

In short, given Mr H had not been stopped by the warnings of S or the regulator, I can't reasonably expect that Revolut's similar action would have made more of a difference (even in the event I was to find a sufficient ground for it to have taken such action).

So, having carefully considered everything, I don't require Revolut to reimburse Mr H. In saying this, I want to stress that I am very sorry to hear about what happened to Mr H and I am sorry he has lost out.

Mr H was the victim of a crime and a cruel scam carefully designed to defraud him of his money. I appreciate he's lost a very significant sum and he's detailed the impact all of this has had for him. But it is simply the case that in all of the circumstances, I can't fairly say Revolut is liable for the losses he incurred.

My final decision

For the reasons given above, I do not uphold Mr H's complaint about Revolut Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 April 2022.

Stephen Dickie
Ombudsman