

The complaint

Mr K complains that Revolut Ltd ("Revolut") have failed to refund money he lost as part of a scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. In summary, Mr K paid over £4,000 to a fraudulent investment merchant (FXLeader) in May 2020. He made the following payments to the merchant using his Revolut debit card:

| Date | Merchant | Amount |
|------------|---|-----------|
| 19/05/2020 | Visa debit card payment to Payby Me*doluhosting | €999.63 |
| 19/05/2020 | Visa debit card payment to Payby Me*doluhosting | €999.97 |
| 20/05/2020 | Visa debit card payment to Payby Me*doluhosting | €999.74 |
| 20/05/2020 | Visa debit card payment to Payby Me*doluhosting | €999.78 |
| 20/05/2020 | Visa debit card payment to Payby Me*doluhosting | €499.90 |
| | Total: | €4,499.02 |

Mr K realised he had been scammed when he was unable to withdraw the money he had invested. He raised a dispute with Revolut in August 2020 for help in recovering his lost funds, but the bank declined to provide him with a refund. Mr K was unhappy as he says they ought to have processed his chargeback claim and have done more to prevent him from falling victim to a scam.

Our investigator didn't uphold the complaint. He didn't think a chargeback claim would have been successful given the specific evidence required under the Visa scheme rules. And he didn't think the transactions were unusual enough to have prompted further enquiry by Revolut. Mr K disagreed, so the matter has been escalated to me to determine.

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.

Chargeback

In this case, Mr K paid FXLeader via a payment facilitator called Payby Me, which collects payments on behalf of online businesses and is seemingly why FXLeader does not appear

on his statements.

Mr K raised a chargeback with Revolut on 6 August 2020 on the basis that the merchant had failed to provide the services he had paid for. Revolut asked for some further information about the circumstances of the dispute but rejected the claim on 11 September 2020 as they said there are no chargeback rights for transactions in which any value is purchased for gambling, investment or similar purposes.

However, Revolut were incorrect in this assumption, as the Visa chargeback rules did cover binary options (or investment) trading from 14 October 2017, i.e. after the disputed transactions: see *Visa Business News* 26 October 2017:

“Effective 14 October 2017, issuers may use Reason Code 53 to address cases whereby a binary options (or forex) merchant has imposed obstacles to prevent cardholders from withdrawing funds. This chargeback right is limited to the amount available in the binary option account at the time funds are requested. Issuers cannot charge back more than the original transaction amount, so capital gains from binary options trades cannot be paid out via the chargeback process”.

It does not appear that Revolut pursued a claim under Reason Code 53 (later re-coded by Visa to 13.5). But I note that the Visa rules required Revolut to present evidence that Mr K had an available balance and that he tried to withdraw sums equal to, or less than, his available balance on the same day. Visa required specific evidence in the form of a dated screenshot on the day the withdrawal was requested, but they have also confirmed to this service that they would consider a dated acknowledgement from the merchant advising that the withdrawal request will be processed, which includes the amount of the request, as sufficient evidence to support the chargeback for 13.5, and an additional screenshot would not be required if this information was presented.

I note that Mr K has provided this service with various screenshots of his trading account and balances that the merchant said he had available. But I have not seen any of the specific evidence outlined above that Visa would require in order for a chargeback to be successful. Therefore, I do not think Revolut acted unreasonably by failing to pursue a chargeback under this particular code in these circumstances.

Mr K has also referenced reason code 13.3 (services not as described). However, for claims under this reason code to have succeeded at Visa’s final stage of arbitration, Revolut would have needed to provide evidence that FXLeader made written representations to Mr K guaranteeing an amount of profit/return he was due to receive. I have not seen any evidence that Mr K received any such representations from FXLeader, so I’m satisfied Revolut were correct to conclude that it didn’t have any prospects of success at arbitration under reason code 13.3 either.

I appreciate that Mr K may have been successful in pursuing a chargeback claim with another bank. But the reasons behind why this was successful are not clear, and I can only consider whether Revolut ought reasonably to have pursued a chargeback claim based on the specific evidence Mr K has presented. And, for the reasons already outlined, I don’t think they had the necessary evidence required in order to present a successful chargeback claim, so I don’t consider they’ve acted unreasonably by failing to take it forwards in these circumstances.

Unusual or uncharacteristic activity

I’ve also considered whether Revolut should have done more to prevent Mr K from falling victim to the scam. as there are some situations in which a bank should reasonably have

had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.

However, the payments Mr K made were for relatively small amounts, such that they would not have appeared unusual in comparison with his spending history. So, I'm not persuaded there was any reason for the payments to have been regarded as suspicious or indicating that he might have been at risk of falling for a scam. I appreciate a warning had been published on the FCA website about FXLeader. But the payment was not made directly to this company. Revolut would have only seen that it was a payment being made to Payby Me (seemingly the payment facilitator used by the merchant), so they would not have known that Mr K was attempting to pay a company that had an active warning published about it by the regulator. So, I don't think Revolut can fairly be held liable for Mr K's loss here, as I'm not persuaded there was any obligation on them to intervene or prevent the payments in these circumstances.

I appreciate this will likely come as a disappointment to Mr K, and I'm sorry to hear he has been the victim of a cruel scam. However, in the circumstances, I do not consider it would be fair and reasonable to hold Revolut liable for his loss.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 26 May 2022.

Jack Ferris
Ombudsman