

## **The complaint**

Mr N is unhappy Revolut Ltd haven't refunded money he lost as a result of a scam.

Mr N is being represented by a Claims Management Company but for ease of reading I'll refer to him throughout the decision.

## **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. In October 2020 Mr N saw an advertisement online endorsed by a well-known celebrity. He then received a call from a person working for a merchant – I'll refer to as 'A'.

After having a conversation with A, Mr N decided to send two payments to two new merchants in October 2020. The first payment was to a merchant, I'll refer to as 'B', in China for £250. The second payment was sent to another merchant in Nigeria, I'll refer to as 'C', for £5,000.

When A started to request more money from Mr N he started to become suspicious. He started to research the merchants involved and found that they weren't regulated by the Financial Conduct Authority (FCA). The next time A tried to contact him he asked to withdraw his money, but this was refused by the merchant.

So, Mr N made a complaint to Revolut in May 2021. Revolut considered the complaint but said it didn't do anything wrong by allowing the payments to be sent so it wouldn't be refunding Mr N's money. It also said that a chargeback was unlikely to be successful due to the issue being raised out of time.

Our investigator didn't think the complaint should be upheld. He didn't think the two payments were sufficiently unusual or suspicious for Revolut to stop and ask more questions about them. And Revolut didn't treat Mr N unfairly by not raising a chargeback.

Mr N disagreed and has asked for an Ombudsman's review. He said the payment to C should've flagged because it was to a new payee in Nigeria. And if Revolut had flagged the payment then it would've been able to stop the scam.

## **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 reached the same conclusion as our investigator. And for largely the same reasons. I know Mr N feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

Revolut has explained to this service that it wasn't suspicious of the two payments because its customers commonly send international payments. And that the MCC code provided for both payments were for 'shopping'.

Mr N has said the payments were unusual for this account and should've been flagged.

### *Recovery*

While I think that the merchants involved here were likely operating a scam at the time of Mr N's payments, the chargeback scheme rules don't automatically entitle him to a refund based on these circumstances.

The chargeback scheme is a voluntary scheme run by card issuers whereby the card scheme operator – Visa in this case – will ultimately arbitrate on a dispute between a merchant and a cardholder if it can't be resolved between them.

There are rules to the scheme – set by the card scheme operator – which means that there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply to when a chargeback can be raised by the card issuer.

Under Visa's scheme rules, for issues such as the one pertinent to this dispute, Mr N would have needed to evidence that:

- he attempted to resolve the dispute with the merchant and, if that was unsuccessful, he cancelled the service;
- his investment account had funds to withdraw on the date he requested the withdrawal; and
- he requested a withdrawal equal to or less than the funds available in the investment account. In addition to this, Mr N would've needed to have submitted his claim within 120 days of when he was expecting to receive the service, and within a maximum of 540 days from the transaction processing date.

It's unclear at this time if or when Mr N attempted to request a withdrawal. So, I can't determine whether his chargeback claim was made within the 120-day time limit. But even if Mr N had requested a chargeback within the relevant time limits, I'm not persuaded that it would have been deemed valid by Visa. From the information I've seen, it doesn't appear as though Mr N was in possession of the required evidence when Revolut were made aware of the scam. Or, that he would have been able to provide it if it had been requested at the time. So, I don't think that Revolut could have reasonably attempted a chargeback claim on Mr N's behalf.

### *Prevention*

While I don't think that Revolut could have done more with regards to the recovery of Mr N's funds once it was made aware of the situation, I've also considered whether it ought to have intervened before allowing any of the payments to be made.

Under regulations and in accordance with general banking terms and conditions, a bank should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making that payment. There is no dispute that Mr N made the payments, and so they were authorised.

However, in accordance with the law, regulations and good industry practice, a bank has a duty to protect its customers against the risk of fraud and scams so far as is reasonably possible. If, in breach of that duty, a bank fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for the losses incurred by its customer as a result.

What this means is that as a starting point Mr N is liable for these transactions unless there's evidence that Revolut could and should reasonably have done more to protect him and that this would have made a difference.

I've taken into account the law, regulatory rules and guidance, relevant codes of practice, and what I consider good industry practice at the time (some of which Mr N has referred to in his submissions). Revolut ought to have been monitoring accounts to counter various risks, have systems in place to identify unusual transactions, or other indicators, that its customers were at risk of fraud and, in some situations, make additional checks before processing payments, or declined them altogether, to protect its customer from possible financial harm from fraud.

There were no active warnings on the FCA's or on the International Organization of Securities Commission's (IOSCO) websites about B or C at the time Mr N made the payments. So, I wouldn't have expected Revolut to have stopped the payments based solely on the merchant's names.

It isn't in dispute that Revolut has (and had) obligations to be alert to fraud and to act in its customers best interests. So, the starting point here is whether the instructions Mr N gave to Revolut when authorising the debit card payments were unusual in relation to the typical account activity. Clearly there is a balance to be struck between allowing customers access to their funds and being alert to instances of potential fraud and scams. Prior to the payment in question, Mr N had recently made a payment - of broadly - a similar amount. Overall, I don't think Revolut were wrong to allow the payments to be made. I don't think the activity was so unusual for this particular account where I think it would have been reasonable for them to have intervened and to have spoken to Mr N before processing them. I also don't think there were any other reasons for Revolut to have done more before following the instructions Mr N provided.

I'm sorry Mr N has lost money in this way. But I don't think Revolut reasonably ought to have done more at the time the payment was made, nor do I think they ought to have done more to pursue a chargeback. As such, I can't fairly tell them to do anything further to resolve this complaint.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 15 November 2022.

Mark Dobson  
**Ombudsman**