

## **The complaint**

Miss K complains that Revolut Ltd ('Revolut') declined to refund £5,000 which she lost as the result of a scam.

## **What happened**

The circumstances of this complaint are well-known to both parties, so I will not go into every detail of what happened here. But, in summary, in July 2021 Miss K sent three payments totalling £5,000 from her Revolut account thinking she was making a legitimate investment. Unfortunately, Miss K was the victim of an investment scam and lost this money.

Miss K explained she was trying to save up to buy a house, and struggling financially as she was unable to work due to the pandemic. A trusted friend told her they had been investing in cryptocurrency through a company, and that they had been able to withdraw some of their returns. So she asked her friend to put her in touch with the company, and had a phone call with them. She said the person she spoke to seemed knowledgeable and professional. She looked at the company website which also appeared professional. It said they were regulated by the Financial Conduct Authority, and Malta Financial Services Authority. She looked up reviews online, and whilst there were negative reviews, she said there were also positive reviews which said people had received their funds – albeit later than they had expected them. She was asked to submit proof of address and photo identification.

Persuaded to invest, Miss K was asked to set up a cryptocurrency account, and an account with the company. She sent an initial two payments split over a couple of days – the first for £1, the second for £999. She watched the growth of her investment over a number of days through her account, and was persuaded to further invest. She sent a third payment of £4,000. She later decided to see how the withdrawal process worked, so contacted the company who after a few messages and a phone call stopped returning her communications.

Miss K realised she had fallen victim to a scam so she contacted Action Fraud, the FCA and Revolut. Revolut declined to refund her losses. They said the payments were authorised by Miss K, and they had provided a warning at the time she made the payments. They said they were not expected to do more than they had, and that they had contacted the beneficiary bank, who confirmed later that no funds remained in the account.

Unhappy with their response, Miss K brought her complaint to our service. One of our investigators looked into what had happened, and didn't recommend that the complaint be upheld. In summary, they felt that the payments were not so unusual or out of character that Revolut as an e-money institution (EMI) were bound to intervene. So they didn't think Revolut were liable for Miss K's losses. Miss K did not agree. In summary, her representatives on her behalf said:

- Regardless of whether or not Revolut are an EMI, they could not see why £4,000 could just be sent from an account without checks by them.
- They disagreed that additional checks would not have made a difference – they said Miss K would not have proceeded with the payments if her bank had questioned her and raised concerns. Hallmarks of investment scams were present such as the use of screen sharing software.

As no agreement could be reached the case has been passed to me to decide.

### **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.

My role here is to assess Revolut's actions against what they should have done – and having done so I don't think it would be fair and reasonable for me to hold Revolut liable for Miss K's loss. So, having considered everything, I'm not going to uphold Miss K's complaint. I do appreciate how disappointing this will be for Miss K, but I don't think I can fairly say that Revolut should reimburse her account with the money that was unfortunately lost to the scammer. I'll explain why.

There is no dispute that the transactions were 'authorised payments' even though Miss K was the victim of an investment scam. She made the transfers herself and under the relevant regulations, and the terms and conditions of her account, Miss K is presumed liable for the loss in the first instance.

As our investigator said, Revolut are not a bank – they are an electronic money institution. What this means is that they operate differently and in a different regulatory framework to banks. Which in turn means there are various pieces of industry guidance, legislation and good practice relating to authorised push payments scams and banks which either don't apply, apply differently or have a more limited application than they would if they were banks. But, broadly speaking, I think good industry practice means Revolut ought reasonably to have been on the look out for unusual or out of character transactions, and they should have intervened to try and prevent customers falling victim to scams.

So, I have thought carefully about whether Revolut should have recognised the payments as unusual or out of character for Miss K's account, such that they should have known she might be at risk of fraud or financial harm. Having done so, I am not persuaded that they should have done. The first payment was for £1, which is of such low value that it would not be unusual on Miss K's account. The subsequent payments of £999 and £4,000 were not inconsequential sums of money, and higher than Miss K's normal account spending. But I do not consider them to be so unusual that Revolut should have had cause for concern. I say this particularly as they were split over a number of days – had the ramped up spending to the same account occurred over a few minutes or hours, it may have looked more unusual to Revolut. Further, the payments did not make the account go overdrawn, there was a credit balance on the account after the funds left it. It is not unusual to save funds in an account in order to make larger purchases or similar – and people often use EMIs differently than they do with a current account or bank. So I do not think Revolut should have picked up on any of these payments as sufficiently unusual that they ought reasonably to have intervened.

I have also considered whether Revolut could have done more to try to recover the money once they had been told of the scam. I would expect a business to take reasonable steps to try and recover the money from the business it was sent to. Revolut did try to recover the funds Miss K sent to the receiving bank – and were able to evidence that they had contacted the bank on the day Miss K flagged the payments as scam payments. The receiving business got in touch to say that unfortunately no funds remained in the receiving account by the time Miss K contacted them. So, I don't think Revolut could have recovered Miss K's funds here.

Having considered all of this, I do not think it would be fair and reasonable to ask Revolut to refund the money Miss K lost as a result of this scam. I am sorry to disappoint her, as I know this has had a significant impact on her. But having thought carefully about what happened, I think it is the scammer and not Revolut who caused the harm here.

**My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 27 April 2023.

Katherine Jones  
**Ombudsman**