

The complaint

Ms D is unhappy Revolut Ltd ("Revolut") hasn't reimbursed her after she transferred money to an investment company that turned out to be a scam.

What happened

"The details of the complaint are well known to both parties, so I won't go into too much detail here. However, in summary, Ms D has been the victim of a scam. She was tricked into sending just under €6,500 to a scam investment company. During the scam, Ms D made the following payments:

- €3,000 on 30 July 2020
- €1,150 on 3 August 2020
- €88.22 on 10 December 2020
- €2,230 on 10 December 2020

The second payment of €1,150 was returned to Ms D's account on 12 August 2020.

Ms D made all of the scam payments using her mobile banking app so there was no interaction with anyone from Revolut. However, she now feels that Revolut should've identified the payments she was making as suspicious. Ms D believes that had Revolut done so, the scam would've come to light, and she wouldn't have proceeded to make the transfers.

Revolut didn't agree that it could have done anything more than it had to protect Ms D from the scam. It said the transactions hadn't raised any suspicions as the scam activity didn't look out of character or unusual when compared to her usual account activity. Revolut said it had contacted the receiving bank when Ms D reported the scam but unfortunately, as this was many months after the transfers had been completed, no funds remained in these accounts.

Ms D disagreed with what Revolut said and so she brought her complaint to this service and one of our investigators looked into things.

Our investigator didn't uphold the complaint. She agreed with Revolut that the scam transactions were in-line with Ms D's usual spending on the account. And she didn't think they should've stood out to Revolut as suspicious enough to warrant further questioning before they were allowed to leave her account. She also thought Revolut had done all it could to recover Ms D's funds once notified of the scam, but this was some months after the transfers had been made, so the funds had already been removed from the receiving account prior to Ms D informing Revolut of what had happened.

Ms D didn't agree with the investigator's findings. She reiterated that the transactions should've stood out to Revolut. And as an agreement has not been reached, the complaint has been passed to me for a decision.

What I've provisionally 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, 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.

I'm really very sorry to hear about what's happened to Ms D. I have significant sympathy for the situation she has found herself in. But having thought very carefully about what she's told us happened at the time and Revolut's actions, I don't currently think it would be fair and reasonable for me to hold Revolut liable for her loss. I'll explain why below.

It is accepted that Ms D authorised the scam payments herself. So, although she didn't intend the money to go to the scammers, under the Payment Services Regulations and the terms and conditions of her account, Ms D is presumed liable for her loss in the first instance. And under the terms and conditions of the account Ms D held with Revolut, where a valid payment instruction has been received, Revolut's obligation is to follow the instructions that Ms D provides.

However, there are circumstances where it might be appropriate for Revolut, as an electronic money institute ('EMI') to take additional steps or make additional checks before processing a payment in order to help protect its customers from the possibility of financial harm from fraud. An example of this would be payments which are sufficiently unusual or uncharacteristic when compared with the usual use of the account. In such circumstances, I'd expect Revolut to intervene and ask some questions about the intended transaction before processing it.

So, I've first thought about whether the transfers Ms D made could be considered out of character and unusual when compared with her usual account activity. I've reviewed Ms D's account statements for the months leading up to the scam, and whilst I agree that the initial payment is higher than the usual transactions made from this account. I still don't think it is remarkable enough for it to have stood out to Revolut. I'll explain why.

The first payment of €3,000 is a relatively small amount and it isn't inherently suspicious. It is quite common for customers to process transactions for this amount on a daily basis. And the next payment that leaves the account, some days after the first, is in line with Ms D's usual spending. And so, it wouldn't now be reasonable for me to say that transactions in their low thousands were so unusual that they should've prompted further action from Revolut. And the transactions that followed the first two weren't of significant value either and both were made months after the initial transactions. So, overall, I'm not satisfied that the scam payments should have stood out or looked so unusual when compared to Ms D's genuine account activity that they should've prompted further checks by Revolut before they were allowed to leave her account.

At the time, Revolut wouldn't have known that Ms D was at making payments to a scam company and the payments were low in value and most were of a similar nature to payments she'd made in the previous months - which indicated a propensity to make payments in the low thousands. It is now only with the benefit of hindsight that we now know that these payments were being made as the result of a scam and I don't agree that there was anything inherently suspicious about them at the time.

It is important for me to stress that firms have to strike a balance between processing payments as per their customer's instructions and monitoring accounts for unusual and potentially harmful activity. And I don't think it would be fair to say that Revolut should've identified the payments Ms D made as suspicious enough to warrant further checks.

I've also thought about whether Revolut could've done more to help Ms D once it was notified of the scam but I don't think it could. Revolut contacted the receiving banks upon notification of the scam. But, unfortunately by this point, all of Ms D's funds had been removed from the receiving accounts.

Finally, I want to stress again that I am very sorry I to hear about what has happened to Ms D. But at the same time, I don't currently think her loss was caused by any specific failing on behalf of Revolut. The fault here lies with the cruel and callous acts of the fraudsters themselves."

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.

Neither Ms D or Revolut responded to my provisional decision with any additional points. As nothing further has been raised, I see no reason to depart from the conclusions reached in my provisional decision, for the same reasons.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 20 October 2022.

Emly Hanley
Ombudsman