

The complaint

Mr P complains that Revolut Ltd won't refund money he lost to an investment scam.

Mr P is being represented by solicitors in his complaint.

What happened

The detailed background to this complaint is well known to both parties, so I won't repeat it again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns 17 payments totalling £11,673 which Mr P made from his Revolut account – mixture of card payments and transfers – between January and April 2022 (see table below). Mr P says he made the payments in connection with an investment opportunity promoted by a company, "D", which he subsequently discovered had cloned a legitimate company bearing the same name.

Sequence	Date	Type	Payee	Amount
Payment 1	31 January	Debit card	Etoro	£950
Payment 2	9 February	Debit card	Luno	£50
Payment 3	14 February	Faster payment	Luno	£500
Payment 4	27 February	Faster payment	Luno	£250
Payment 5	11 March	Faster payment	Luno	£190
Payment 6	28 March	Faster payment	Luno	£725
Payment 7	28 March	Faster payment	Luno	£215
Payment 8	28 March	Faster payment	Luno	£8
Payment 9	28 March	Faster payment	Luno	£20
Payment 10	29 March	Faster payment	Luno	£250
Payment 11	29 March	Faster payment	Luno	£750
Payment 12	1 April	Faster payment	Luno	£970
Payment 13	11 April	Faster payment	Luno	£1,050
Payment 14	11 April	Faster payment	Luno	£120
Payment 15	11 April	Faster payment	Luno	£525
Payment 16	17 April	Faster payment	Luno	£100
Payment 17	25 April	Faster payment	Luno	£5,000
			Total loss	£11,673

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 agree with the overall outcome reached by the investigator. I've explained why below.

Revolut hasn't disputed Mr P's claim that he sent payments to a clone company instead of the legitimate company. I haven't seen sufficient evidence to conclude either way. But given that Revolut hasn't disputed Mr P's claim that he was scammed, I've proceeded on the basis that his dealings were with the scam company.

The starting position is that liability for an authorised payment rests with the payer, even when they are duped into making that payment. There's no dispute that Mr P made the payments using his security credentials, and so they are authorised. But in accordance with the law, regulations and good industry practice, a payment service provider, including an electronic money institution like Revolut, should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert it to potential fraud or financial crime, it might be fair and reasonable to hold it liable for losses incurred by its customer as a result.

Revolut submits that payment 3 (see above table) did flag on its fraud detection systems. It says it asked Mr P the purpose of the payment and displayed a warning based on the purpose selected from the available options. Revolut argues that Mr P continued with the transaction despite being given the opportunity to seek advice before going ahead.

The investigator concluded that Revolut's intervention at the time of payment 3 was proportionate given the amount. But having requested further information, I disagree. I asked Revolut to tell us the payment reason Mr P selected and forward a copy of the warning message it says it displayed at the time. Looking at its response, Mr P selected 'safe account' when in fact he'd been investing funds and that was one of the payment purposes on the list. It isn't clear why Mr P selected the reason that he did. Regardless, Revolut ought to have been concerned when 'safe account' was selected, given it is never a legitimate reason for sending money to another account.

In the circumstances, I don't consider displaying a scam warning on the screen and giving Mr P the option to (1) read its scam guidance, (2) get advice from one of its agents, (3) cancel the payment, or (4) go ahead with it, was a proportionate response to the risk identified. Revolut ought to have contacted Mr P to discuss the payment further, even if it meant directing him to an in-app chat.

Had there been a 'human' intervention and questions asked about the payment purpose selected, it's likely Mr P would have explained he'd made a mistake and selected the safe account option in error. Given that the payment had triggered on Revolut's systems prior to it knowing the payment purpose, I would have expected it to continue with its enquiries once Mr P confirmed that he was making an investment. So, I consider it missed an opportunity.

But that's not the end of the matter. Causation is a critical determinative factor in every scam case. It isn't enough that a payment service provider like Revolut failed to act unfairly or unreasonably; its acts or omissions must be the immediate and effective cause of losses that were reasonably foreseeable at the time of the breach. I can't know for certain what would have happened if Revolut had questioned Mr P further about the disputed transaction. In such situations, I reach my conclusions not based on mere possibilities but rather on what I find most probable to have happened in the circumstances.

In other words, I make my decision based on the balance of probabilities – so what I consider most likely to have happened considering the evidence and wider circumstances of the case. Having carefully thought about this, I'm not convinced that a scam warning specifically about investments would have made a difference to Mr P's decision-making. I've kept in mind that he thought he was dealing with the legitimate company, who he and a friend he trusted had carried out due diligence into before deciding to invest. Even if Revolut's intervention had included a discussion about scammers cloning legitimate

businesses, having done a backdated search on the internet I can't see any information or regulator warnings about D being cloned.

So, although Mr P had already done checks before deciding to invest, I don't think further checks would have yielded anything else seeing as he would most likely have only seen information about the legitimate company. I'm also mindful that Mr P was in contact with the scammer during the relevant time and any concerns he *might* have had following a more in-depth discussion with Revolut would have been alleviated by the scammer's reassurances.

So, under the circumstances, I'm not convinced that better intervention by Revolut along the lines I've described above would have necessarily unravelled the scam. And much for the same reasons, I don't think further intervention at a later point would have made a difference either. As the investigator has highlighted, Mr P says he wasn't pressured into sending more money until after he'd made the last disputed transaction.

I've also thought about Revolut's actions in relation to the recovery of payments *after* it became aware of the situation. In relation to the debit card transactions, the only avenue here would have been a chargeback. Revolut could have only raised a chargeback against the merchant Mr P paid, not another firm i.e., D. And given the merchant he paid had provided the service (conversion of money into cryptocurrency or loading funds), it's unlikely that a chargeback would have been successful.

As for the faster payments, Revolut says that it contacted the beneficiary bank and requested a recall of the funds. But the beneficiary bank asked for some further information which it didn't have, so recovery was considered as failed. I can't see that Revolut reached out to Mr P to check if he had the information that the beneficiary bank had requested. But I don't think that matters. According to Revolut's notes, Mr P reported the scam on 27 June – over two months after he'd made the last payment. It's unlikely that funds would have remained in the beneficiary account by that point, given it's often the case that scammers move funds immediately to avoid the possibility of recovery. And if it is the case that the beneficiary account here was Mr P's wallet with Luno (from where the funds were sent on), then there would have been nothing left to recover given the funds had already left Mr P's wallet.

In conclusion, I know that Mr P will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a significant amount of money involved here. Despite my natural sympathy for the situation in which Mr P finds himself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for his loss.

My final decision

For the reasons given, 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 P to accept or reject my decision before 30 November 2023.

Gagandeep Singh
Ombudsman