

## **The complaint**

Mr G complains that Revolut Ltd didn't do enough to protect him from the financial harm caused by an investment scam company, or to help him recover the money once he'd reported the scam.

## **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.

Mr G was a victim of an investment scam. In December 2021, he received a message on social media from someone who then claimed to have sent the message by mistake. The dialogue continued with daily messaging until eventually the person told Mr G a family member could help him to make money from investing in cryptocurrency.

Mr G was then put in touch with someone claiming to be a broker working for a company I'll refer to as "K". Mr G did some research but K's website had only been registered for a month so there were no reviews or anything to suggest it was a scam.

The broker advised Mr G to open an account through K's website. He called customer services so that his account could be verified, and the broker then helped him trade with virtual money, showing him how to make a profit. Mr G could see virtual profits in the account so he decided to invest, creating a Revolut account as he knew it would allow him to invest in cryptocurrency.

The broker asked Mr G to first purchase cryptocurrency through a cryptocurrency exchange company and then load the cryptocurrency onto his online wallet. Between 12 December 2021 and 29 December 2021, he made 17 payments via online transfer from his Revolut account to a cryptocurrency exchange company I'll refer to as "C" totalling £60,074.

Initially, Mr G transferred £50 and £100. He was then told he needed to invest more money, so he transferred £3,000. Throughout the scam period, Mr G received two small withdrawals from his trading account and the broker sent screenshots of his profits. But when he asked to make a full withdrawal, he was told he'd need to pay liquidation fees. So, between 27 December 2021 and 29 December 2021, Mr G sent a total of £32,924 to pay what he was told were fees which would allow him to access the full account balance. Eventually, the broker stopped contacting Mr G and he realised he'd been the victim of a scam.

Mr G contacted Revolut but it said there was nothing it could do because the scam didn't occur on the Revolut platform. It accepted Mr G was the victim of a sophisticated scam but it said there had been a warning about K on the Financial Conduct Authority ("FCA") register since 16 December 2021, so there had been information that K might be fraudulent while the scam was still on-going.

It said it provides information to its customers on how to avoid scams and it didn't accept it had acted negligently, explaining it had transaction monitoring and fraud prevention systems in place, but the disputed transfers weren't suspicious and didn't trigger those systems.

It apologised for the fact Mr G wasn't told about the complaints process, but it explained that as soon as it was told about the scam, all the necessary steps were taken to resolve the issue.

Mr G wasn't satisfied and so, with the help of a representative, he complained to this service. He explained he'd only been living in the UK for around 4 years and was exhausted as he had a new baby. He said he was disappointed with the customer service he'd received because Revolut didn't update him about his claim.

He argued Revolut didn't have effective measures in place and that he was only ever asked where the money had come from, not where it was going. He said the warning on the FCA register was posted after he made the first payment and he doesn't accept he should have continued to research the company after he made the first investment.

Mr G's representative explained he wasn't an experienced investor and his research had shown nothing to suggest K was operating a scam. The website was very professional and could be viewed in both English and Japanese. Mr G had access to his trading account and made successful withdrawals.

Our investigator felt the complaint should be upheld. She explained that, even though Mr G's Revolut account was newly opened, the payments should reasonably have been viewed as out of character because of their high value, and because they were sent to a new payee within days of each other.

She felt Revolut should have contacted Mr G to ask questions when he made the third payment for £3,000 and that if it had done so, his loss could have been prevented. But she also thought Mr G had contributed to his loss because he'd trusted an unknown individual after just a week of conversing on social media and, as a first-time investor, he should have been more cautious, especially as there were no reviews about K.

Mr G initially said he didn't agree the refund should be reduced, but he subsequently accepted the findings. But Revolut has asked for the complaint to be reviewed by an ombudsman.

It maintains its not liable to refund Mr G because the payments were made to a cryptocurrency exchange company, so the account wasn't linked to the scam. It argues that when the funds were sent from Mr G's Revolut account, they landed safely in the account he held with C.

Revolut has also said the payments didn't alert its security system because they were being sent to an account in Mr G's own name and that it wasn't possible to conclude the spending was suspicious as there was no history to compare the activity with. Consequently, there was no reason for it to intercept the payments other than the sole fact that they were being sent to a cryptocurrency platform.

Finally, it has argued that it's unfair that it's being asked to refund the money because C is unregulated and that, at the very least it should share responsibility with the bank that sent money to Revolut.

### **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.

The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment ('APP') scams, like the one Mr G says he's fallen victim to, in all but a limited number of circumstances. The CRM code didn't apply in this case because the payments were transferred to an account in Mr G's own name, so the code didn't apply.

I'm satisfied Ms G 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr G is presumed liable for the loss in the first instance.

I've carefully considered the circumstances, and I am persuaded the broker was operating as part of a scam. But, although Mr G didn't intend his money to go to scammers, he did authorise the disputed payments. Revolt is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

### *Prevention*

I've thought about whether Revolut could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Revolut had an obligation to be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Mr G when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Revolut to intervene with a view to protecting Mr G from financial harm due to fraud.

The payments didn't flag as suspicious on Revolut's systems, in part because the account was new and there wasn't a transaction history to compare with. I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mr G normally ran his account and I accept this was difficult due to the lack of account history.

However, while all the payments were to a legitimate cryptocurrency exchange, the third payment of £3,000 was for a large amount and it was to a payee to whom Mr G had only previously transferred £100 and £4.99. The payment also left the account empty. Because of this, I think it should reasonably have flagged as unusual and triggered a call from Revolut.

During this call I would expect Revolut to have asked some probing questions around how he'd met the broker and whether he'd been provided with a trading account. In response, I think it's likely Mr G would have told it there was a third-party involved and how he'd met that third-party. He would have also explained that he was told to move money into an account in his own name.

I would then expect Revolut to have warned Mr G about the risks associated with the investment and explained that the involvement of a third party and the fact he'd be advised to transfer the money into an account in his own name is a red flag with investment scams. I'd also expect Revolut to discuss with Mr G the nature of the checks he'd undertaken and to give some advice on additional due diligence.

I'm satisfied that if Mr G had been asked these questions, he'd have answered truthfully because there's no evidence of him having misled the bank before or that he was told to do

so by the scammers. And, consequently, I'm satisfied that Revolut would likely have gathered enough information to suggest the investment could be a scam.

At the time Mr G made the third payment, there were no warnings on the FCA register which would have alerted him to the fact this was a scam (there were no warnings with either the Financial Conduct Authority ("FCA") or International Organization of Securities Commissions ("IOSCO") websites until 16 December 2021) but while I understand Mr G was tired and exhausted, I haven't seen any evidence that he was keen to take risks. He didn't have a history of high-risk investing and I think that if he'd had any inkling this might be a scam it's likely he wouldn't have chosen to go ahead with the payments. Because of this, I think that Revolut missed an opportunity to intervene in circumstances when to do so might have prevented Mr G's loss. Consequently, I will direct it to refund the money Mr G lost from the third payment onwards.

### *Contributory negligence*

There's a general principle that consumers must take responsibility for their decisions and conduct suitable due diligence, and our investigator has recommended a 50% reduction to the settlement for contributory negligence. The question for me to consider is whether Mr G went ahead with the payments in the face of information or evidence that should have made him stop to consider whether this was a scam.

I think the means by which the scammer got in touch with Mr G should reasonably have led him to question whether the person was operating a scam. According to Mr G, he the scammer purported to have contacted him by mistake and I would expect a reasonable person to question why an unknown third party would then go out of their way to help them make money in such circumstances. I accept he wasn't an experienced investor, but Mr G worked in IT and should reasonably have known the existence of a professional looking website alone doesn't mean that a business exists or is legitimate.

This was a sophisticated scam and the broker had clearly earned Mr G's trust, but he had plenty of time to reflect on the circumstances and the fact there was no information available online about K and, in the circumstances, I think it would've been reasonable to have made some additional checks.

I appreciate Mr G had seen the website and he had also made significant withdrawals which would have given him some confidence the investment was genuine, but I agree he could've done more to protect himself, so I think a 50% reduction to the settlement is fair.

Finally, Revolut is concerned that it cannot fairly be held liable for Mr G's losses in circumstances where the involvement of other banks means liability could more fairly be shared. Our investigator has correctly explained that the payment from the originating account wasn't to a firm associated with cryptocurrency. Further, irrespective of whether a business is regulated, we can't tell consumers who to complain to and for the purposes of this complaint I can only consider the issues as they relate to Revolut.

### **My final decision**

I uphold this complaint and direct Revolut to refund:

- £59,924.
- this settlement should be reduced by 50% to reflect contributory negligence.
- pay 8% simple interest\*, per year, from the respective dates of loss to the date of settlement.

\*If Revolut deducts tax in relation to the interest element of this award it should provide Mr G with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 6 July 2023.

Carolyn Bonnell  
**Ombudsman**