

The complaint

Mr S complains that Revolut Ltd won't refund the money he lost after he fell victim to an 'authorised push payment' ("APP") scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it all here, But briefly, and based on the submissions of both parties, I understand it to be as follows.

Mr S was looking to invest in cryptocurrency. He's told us he had friends who had made good profits and traded as full-time jobs. Mr S has said he'd previously invested a small amount, but due to his lack of knowledge and as he believed it was a risk, he didn't take things further.

In or around June 2021, Mr S saw an advert for investments on a well-known social media platform. Mr S has said he was particularly interested in the advert as it was offering a service that provided an adviser who would assist with trades. He's told us that he followed the link on the advert and within a few minutes he received a call from somebody claiming to be from the Investment company.

The caller spoke to Mr S about the investments and signed him up to have a trading account, providing him with a username and password. Mr S has said he was able to log into his account and he reviewed the company's website – and this reassured him that things were genuine. Mr S was asked to make an initial payment of £250 to start trading, which he paid from an account he held with another provider. He was told that an account manager would be in contact to discuss future trades and plans. But unknown to Mr S at the time he was dealing with fraudsters.

Mr S has said he could see his initial deposit in his trading account and within a few days the £250 had increased to £600, which he's said provided him with confidence. Mr S was then contacted by a fraudster, posing as an account manager. Mr S told the fraudster he was saving for a house and had £20,000 put aside for this. The fraudster told Mr S that if he were to invest this money he would make profits of between £250,000 - £300,000 within a year. Mr S said this excited him, as he thought it would mean he could afford to buy a home.

The fraudster told Mr S he would need to invest a higher amount, so that he could achieve 'silver' level, which would mean he'd be able to make higher trades. He was told that if he invested on that day, he would be given a bonus of 45% on the amount he invested and be able to keep 100% of the profit he made on this bonus. Believing everything to be genuine, on 3 June 2021, Mr S went ahead and made a payment for £5,600 from his Revolut account. Mr S made the payment to a cryptocurrency wallet that was in his name. But the fraudsters had asked Mr S to provide them with access to this account, through a remote desktop application, so that they could move the money and trade on his behalf. From Mr S' cryptocurrency wallet the fraudsters were able to move the funds into accounts they controlled.

Following this payment, Mr S was able to see his investment grow and was encouraged to invest more and went on to make two further payments to the fraudsters; for £4,300 on 10 June 2021 and for £9,520 on 25 June 2021. Mr S made payments totalling £19,420 from his Revolut account.

Mr S has said he'd asked to withdraw some money from his account previously, but was always persuaded to keep it in the investment. But he began to realise things weren't right when he asked to withdraw some money, but was told he'd need to make another payment in order to do so. Mr S didn't have any more money that he could pay, and on telling the fraudsters this, Mr S has said they became aggressive and cut any further contact with him.

Mr S raised the matter with Revolut through its in-app chat. Revolut looked into Mr S's complaint and issued its final response on 22 July 2022 not upholding his complaint. In summary, it said it was sorry to hear of the events that had happened to Mr S. But that the fraudulent operations happened outside of its systems, so it didn't believe it should be held liable. It added that, before he'd made his first transaction, it had declined the payment and warned him about scams. It said Mr S hadn't performed any due diligence and it doesn't believe it missed a chance to prevent the money being lost. Revolut said it had tried to recover the money Mr S had lost from the beneficiary account, but had been unable to recover any money.

Unhappy with Revolut's response, through his representatives, Mr S then brought his complaint to this service. One of our Investigator's looked into things and thought the complaint should be upheld in part. In summary, she thought the first payment Mr S made to the fraudsters ought to have flagged as out of character and that Revolut should have intervened further than it did. She thought that further intervention would have made a difference. So our investigator thought Revolut was, at least partially, liable for the loss.

But our investigator also thought Mr S should hold some responsibility for his loss. This was because she thought there was enough going on for him to have had concerns about what he was being told. She didn't think the returns he was being told he would achieve were plausible and that also being told he would get a 45% bonus, commission free, all sounded too good to be true. Our Investigator said this should have caused Mr S to pause and further question what he was being told, but she couldn't see he had taken any steps to confirm things.

Overall, it was our Investigator's view that Revolut should refund Mr S with 50% of the money he lost, along with interest from the dates the payments were made.

Revolut responded to our Investigator's view. In summary, it said it didn't believe any further intervention from it would have made a difference and that it did try and stop the first transfer, by declining it. But it did propose that liability could be shared for the transfers where there was no intervention on its part. In view of this it made an offer to refund Mr S 50% of the second and third transfers he'd made.

Our Investigator put this offer to Mr S but, through his representative, he rejected the offer and also didn't agree with our Investigator's view. In summary he said that English is not his first language and he is not native to the UK. As such, he thought it unreasonable to suggest he should have known what a reasonable rate of return was, especially considering he had never invested previously.

As agreement couldn't be reached the complaint has been passed to me for a final decision.

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.

I accept the transactions were authorised payments, even though Mr S was the victim of a sophisticated scam. So, although he didn't intend the money to go to the fraudsters, under the Payment Services Regulations 2017 and the terms and conditions of his account, Mr S is presumed liable for the loss in the first instance.

However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Revolut should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

From looking at Mr S' account statements in the months leading up to the scam, I'm persuaded the payments Mr S made to the fraudsters weren't typical of his usual account activity. There isn't really any disagreement about this point, as Revolut has confirmed the first transfer for £5,600 was flagged and declined by its systems. With this in mind, I have to consider whether Revolut did enough once it suspected there was a high risk of fraud.

Revolut has said the following warning was displayed when it declined the first payment Mr S attempted:

Review transfer

Our systems have identified your transaction as highly suspicious. We declined it to protect you. If you decide to make the payment again anyway, you can, and we won't decline it. As we have warned you this payment is highly suspicious and to not make the payment, if the person you pay turns out to be a fraudster, you may lose all your money and never get it back. You can learn more about how to assess this payment and protect yourself from this link: <https://takefive-stopfraud.org.uk/>

I acknowledge Revolut has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud and for when it ought to intervene. And I accept that a bank does have a duty under the Payment Service Regulations not to delay payments or transfers unduly. But it is not an unfettered duty to execute – and reasonable checks are also required as part of the broad regulatory landscape to treat customers fairly and to safeguard against the risk of fraud or financial harm.

I'm mindful there is a limit as to what a Firm can reasonably do; and I still expect consumers to take responsibility for their own decisions – and possibly even bear a reduction in compensation if there is clear evidence of blame on their own part (see below). But when plain triggers of unusual or uncharacteristic account activity exist, it's not unreasonable to expect a Firm's fraud alerts to respond *proportionately* – and that might simply include, for example, a phone call, in app chat or discreet conversation for transactions in branch to check that things are okay.

In the individual circumstances of this case, I don't think the warning Revolut presented went far enough and I'm persuaded it ought, fairly and reasonably, to have done more here. Banks are expected to carry out the payment instructions it receives from its customers. But, as I've mentioned, that isn't without exception and the broad regulatory landscape obliges banks to protect its customers from fraud and financial harm.

The warning Mr S was given was very generic and didn't highlight what the risks of making the payment might be. Mr S was given no context as to what Revolut thought might be wrong or how he might protect himself (aside from simply not proceeding). Without proactive steps to 'break the spell' of fraudsters, customers will often proceed with the payment they are making. They are unaware that they are caught up in the scam. And when sophisticated elements such as fake trading accounts and professional looking websites are involved, then the scam becomes significantly more persuasive. A generic and unspecific warning is unlikely to have the required impact on a customer that has been manipulated into action through a combination of sophisticated means.

Had Revolut intervened further, as I think it ought to have done, I'm persuaded, on balance, it more likely than not it would have made the difference and I don't think Mr S would have gone ahead with the payments. I say that as Mr S wasn't given a cover story by the fraudsters, so I think he would have answered any questions Revolut put to him freely. I think Mr S would have told Revolut he was intending to invest and what returns he could achieve. With this, I think the level of returns would have seemed so implausible to Revolut, that, as the professional in these matters, I'm persuaded it would have sounded very much like a scam to it. So much so, that I think it would have persuaded Mr S not to continue with the payments and therefore preventing his losses from this point. Mr S has said he recognised that investing was risky, so I don't think he would have wanted to jeopardise losing such a considerable amount of money, if his Bank had clearly warned him about the common features of investment scams and how they related to the payment he was intending to make.

For this reason I think Revolut is, at least in part, liable for the money Mr S has lost from the first payment he made.

Should Mr S bear some responsibility for his losses?

I also need to consider whether Mr S ought to bear some responsibility for the losses he incurred.

Having thought about this carefully, I'm persuaded that the evidence suggests that when Mr S made these payments there was enough going on that he ought fairly and reasonably to have proceeded with more caution than he did.

I say that because I think the suggested profit of in excess of 1000%, within such a short period of time, seemed so outlandish and implausible that it ought to have concerned Mr S and led him to take more steps to ensure he was making a genuine investment. I can't see that Mr S was provided with, or asked for, a persuasive answer as to how these level of

returns could be possible, rather he seems to have accepted what he was being told at face value.

I don't doubt the offer of such returns would have appeared enticing, but considering how high these returns were, I think it's reasonable to have expected Mr S to have looked into things further before proceeding. Especially considering that he's said he had specifically put this money aside to buy a home and no doubt the amounts he went on to pay represented significant sums to him. And with his lack of investment experience, I think it's fair and reasonable to have expected Mr S to be more prudent in establishing the risks of the investment he was about to make.

Coupled with this, I'm not persuaded a legitimate Investment company would offer a bonus that matched almost 50% of an investment, seemingly without there being any gain in it for the Investment company. I'm persuaded that what was being offered was simply too good to be true.

My reasoning above relates mainly to the first payment Mr S has made, but it also follows for the further payments he went on to make. And alongside this, when Mr S went on to make his further payments, he had, by this time, also been persuaded by the fraudsters to not withdraw funds, when he'd asked to. But I can't see that he questioned this, when I think he reasonably ought to have done.

Given the rate of returns that were being offered and that Mr S was being asked, through a remote desktop application, to hand over full control of the cryptocurrency wallet to the fraudster. I think Mr S should have had some concerns about the legitimacy of the investment and who he was dealing with and he should have made further checks before proceeding. But it appears Mr S didn't do any checks outside of looking at what he was presented with by the fraudsters.

I've considered that Mr S's representatives have argued that he was vulnerable. It's said due to his lack of English skills and not being native to the UK it would be unreasonable and unfair to suggest he should have known what a reasonable rate of return was, especially as he had never invested previously. But I don't agree that the submissions Mr S has presented to us supports this argument.

I say that because, by his own admission, Mr S has told us he had invested previously, albeit a much smaller amount, and that he was aware of what the risks were. So I think it's more likely than not Mr S would also have been aware of what a reasonable return could be. Alongside this, I haven't seen any evidence to suggest that Mr S not being a native to the UK has been a barrier to him. He's been able to identify an investment that interested him, complete an online enquiry form and has told us he built a good relationship with the fraudsters, sharing photos of his family and talking to them about his plans. Alongside this, the evidence I've seen of his interactions with Revolut, don't indicate, in my mind, that Mr S's circumstances are in anyway hindering his interactions with it.

Overall, for the reasons I've explained, I think it's fair and reasonable for Mr S to share the responsibility with Revolut and to reduce the refund on the payments I've pinpointed above by 50%.

Finally, I'm satisfied that there would have been no prospect of recovering Mr S's funds in these circumstances – given that they were moved on from a cryptocurrency platform, in cryptocurrency, to the fraudsters.

Putting things right

For the reasons explained, Revolut should now;

- refund 50% of the money he lost (being 50% of £19,420)
- pay 8% interest on this amount, from the date of transactions to the date of settlement.

My final decision

My final decision is that I uphold this complaint against Revolut Ltd in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 March 2023.

Stephen Wise
Ombudsman