

The complaint

Mr M has complained that Revolut Ltd won't refund transactions he says he didn't make or otherwise authorise.

What happened

In September 2022, Mr M was mugged and his phone was taken. Around £900 was then spent from his Revolut account.

Mr M explained the muggers had helped him recharge his phone after the battery went dead. They talked to him for some time before then taking the phone, having watched him entering his phone's PIN, which were the same digits as his Revolut PIN. They then took control of Mr M's main online IDs and made payments across several of his financial accounts. Those other companies refunded those payments. Mr M had to buy a new phone to get access to his Revolut account again.

Revolut held Mr M liable for the payments in dispute. They noted his account had been accessed not just with the PIN, but with Face ID too. They found that even after Mr M had got his new phone and checked his Revolut account, he'd waited 15 hours to tell Revolut anything was wrong, which allowed the fraudsters further use of his account.

Our investigator looked into things independently and partially upheld the complaint. They found the evidence supported that Mr M's phone really was stolen. They explained it was likely that the fraudsters had changed the phone's Face ID before using it to access the Revolut app. So they thought Revolut should refund the initial disputed payments. But they agreed that Mr M had unduly delayed reporting things, so they thought Revolut could not be held liable for any payments after the point Mr M checked his account. They also proposed that Revolut pay Mr M £150 compensation for the distress caused, and refund a late fee.

Neither side agreed. Revolut still felt the payments were authorised. Mr M felt he hadn't delayed reporting things unduly. The complaint's 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.

Revolut's technical evidence shows that the payments in dispute used Mr M's mobile app, accessed from his old phone using his PIN and Face ID. But this is not enough, on its own, for Revolut to hold Mr M liable – they also need to be able to evidence that Mr M consented to the transactions, or that he failed to keep his account safe either intentionally or through acting with gross negligence.

I am satisfied from the evidence provided that Mr M's phone was stolen. He reported this to the police straight away, gave them thorough information to trace the people who made the payments, the police took on the investigation, and they've said they've potentially identified the perpetrators. Mr M has also provided substantial evidence of his other accounts being taken over, including emails and screenshots of someone having changed his security details to lock him out. I can see the other financial institutions involved carried out their own investigations, and all except Revolut concluded that Mr M had been defrauded.

There is a plausible point of compromise for Mr M's Revolut PIN: namely that the fraudsters watched him entering the phone's PIN before taking the device, and that the digits matched those for his Revolut PIN. It is not unusual for fraudsters to learn PINs this way, and it fits with the length of time they spoke with Mr M beforehand. It's unfortunately also not unheard of for people to use the same digits for different PINs. Mr M's testimony has been consistent and credible across the statements he's given to various organisations and the police, and I've not found a good reason to doubt what he's told us.

Having the phone's PIN would also explain how a fraudster could then use Face ID – as they'd be able to use the PIN to change the phone's Face ID to their own face. I can see that before the disputed transactions, the person using Mr M's old phone was unable to login using Face ID. They then repeatedly went into the settings for the Revolut app to disable Face ID, then enable it again after some time – at which point they could use it to log in. This fits well with the possibility that they'd changed the Face ID for the phone.

Lastly, the transactions follow a clear pattern of fraud, trying various methods to drain Mr M's account quickly.

Taking into account everything that's been said and provided, I'm not persuaded that Mr M consented to the disputed transactions. So I don't think Revolut can hold him liable for them on the basis of them being authorised.

Next, I've considered the issue of negligence. Mr M was negligent in using the same digits for his phone's PIN and his Revolut PIN. He does need to make sure he does not do this in future. But gross negligence is a much higher standard than normal negligence – it involves serious recklessness. So on its own, I don't think Mr M's use of the same PIN digits was grossly negligent. I also can't see that Mr M was deliberately failing to comply with his obligations to keep his account secure in a way that was intentional.

However, I can see that Mr M checked his Revolut account after registering the app on his replacement phone. Yet he didn't tell Revolut about his account being used without his consent until much later. This meant that the fraudsters were able to spend further money.

I do understand that Mr M was dealing with a lot at the time, and going through a difficult ordeal. I appreciate he may have been in a more vulnerable position. I've also taken into account his arguments that the most recent payments were declined, and that he couldn't remember his exact balance across his different accounts.

However, at the point Mr M checked his Revolut account, he already knew that fraudsters had his phone, access to his sensitive details, and access to other key accounts of his. And he could now see for certain that they were using his Revolut account too, whether the most recent payments were declined or not. Even if Mr M didn't remember his exact balance, by that point he'd lost a substantial amount of money from his Revolut account and the balance had been entirely drained. So it would've been very clear things had gone wrong. And Mr M had a responsibility to tell Revolut things were wrong. It would have only taken moments for him to have sent a quick message to Revolut to let them know someone was misusing his account, so that they could block any further attempts at fraud.

Because Mr M didn't do this at the time, it allowed the fraudsters to make further spending. I cannot fairly hold Revolut responsible for that. I'm afraid I think that last spend happened because Mr M's actions crossed over into gross negligence. And even if I *didn't* find that they constituted gross negligence: under the relevant rules, I find that the extra time he waited would count as an undue delay in reporting things – which would still mean that I could not fairly hold Revolut liable there. So I don't think Revolut need to refund the spending from after the point where Mr M checked his account on the new phone.

I've also thought carefully about how Revolut handled things for Mr M. I understand it was frustrating for him that he had to answer questions repeatedly even when they didn't appear relevant. And since Revolut wouldn't give him a refund, I understand that Mr M was caused some real stress, as well as embarrassment at having to borrow money from people to pay his bills. He's also shown us that he incurred a late fee because of this.

When a business gets things wrong, we often tell them to pay compensation, to account for their error and the impact it had. In terms of the amounts, I have taken into account that it was the fraudsters who primarily caused Mr M's losses here, rather than Revolut. And it's worth bearing in mind that we're here to resolve complaints informally, but not to issue fines or to punish businesses. We have guidelines about what levels of compensation to award, and I need to be consistent with those. Taking everything into account, I agree with our investigator that £150 compensation is fair in this case.

Putting things right

I direct Revolut Ltd to:

- refund the disputed transactions from before Mr M accessed his account on the new phone, totalling £399;
- pay simple interest to Mr M on those transactions, at the rate of 8% simple a year, payable from the date they were debited until the date they're returned[†]. This is to compensate Mr M for the time he didn't have his money.
- refund the £7.50 late fee that Mr M incurred for one of his bills; and-
- pay Mr M £150 compensation for the trouble and upset they caused.

[†] HM Revenue & Customs requires Revolut to take off tax from this simple interest. Revolut must give Mr M a certificate showing how much tax they've taken off if he asks for one. Mr M may be able to claim the tax back from HMRC if he does not normally pay tax.

My final decision

For the reasons I've explained, I uphold Mr M's complaint in part, and direct Revolut Ltd to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 March 2023.

Adam Charles
Ombudsman