

The complaint

Mr R complains that Revolut PLC closed his account and registered a CIFAS marker against him. CIFAS is the UK's fraud alert service.

What happened

Mr R had an account with Revolut.

In August 2022, three payments, totalling just over £5,000 were made into Mr R's account. Following this Revolut were notified by another bank that the payments were fraudulent.

Revolut blocked Mr R's account and decided it needed to look into how he was operating his account. Following its review, it placed a fraud marker against Mr R's name with CIFAS, the Credit Industry Fraud Avoidance System. This was for misuse of a facility in relation to a money mule. Revolut also decided to close Mr R's account.

Mr R complained to Revolut. He explained that he hadn't been involved in any fraud and that the payments had been made by a friend who told him that he needed to put money into Mr R's account because he was having problems using his own account. He said the marker was causing him a lot of problems opening another bank account and asked Revolut to remove the marker. Revolut looked into Mr R's complaint but didn't uphold it. It said it had closed Mr R's account in line with the terms and had loaded Mr R fairly with CIFAS. Unhappy with this response Mr R brought his complaint to our service.

An investigator looked into Mr R's complaint. She asked Mr R about the payments into his account and whether he had any evidence to support his explanation. Mr R said he didn't know the sender of the payments that were made into his account and that his friend had asked to use his account. Mr R said that since he'd found out about the marker, he had tried to ask his friend about the payments, but he kept ignoring his calls.

Mr R said he was given a screen shot by his friend to provide to Revolut when his account was first blocked, to help show where the money had originated. But he no longer had this as since then he had to clear data from his phone to free up storage on the device. Mr R said that he believes his friend is a 'scammer', but he didn't report anything to police as he didn't want his friend to end up in prison.

The investigator reviewed everything and said that Revolut hadn't done anything wrong when it closed Mr R's account and loaded a marker against him. Mr R disagreed. He wants the marker removed. He said he'd been naïve and simply made a mistake by allowing the payments to come into his account. He said the marker was making it very difficult from him to open a bank account and would impact his ability to obtain a mortgage for years to come. He also explained that his mental health had suffered. And he provided the investigator with a screenshot of a conversation between him and a friend which he says shows he wasn't a witting participant in fraud.

As no agreement could be reached the matter has come 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.

I'll deal first with Revolut's decision to block and close Mr R's account. Revolut has extensive legal and regulatory responsibilities they must meet when providing account services to customers. Having looked at all the evidence, I'm satisfied that Revolut acted in accordance with these obligations when it blocked and reviewed Mr R's account. And it was entitled to do so under the account terms and conditions. Revolut was also within its rights to close Mr R's account and did so in line with the account terms and relevant regulations. So, I can't say Revolut have done anything wrong when it closed Mr R's account.

I've next moved on to consider the loading of the CIFAS marker against Mr R. The marker that Revolut have filed with CIFAS is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, they're not required to prove beyond reasonable doubt that Mr R is guilty of a fraud of financial crime, but they must show that there are grounds for more than mere suspicion or concern. CIFAS says:

- *“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]*
- *The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Mr R's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was *deliberately* dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show *deliberate* complicity.

So, I need to consider whether Revolut have sufficient evidence to meet the standard of proof and load a marker for misuse of facility with CIFAS. Having looked at all the information provided, I'm satisfied they have, and I say this because:

- I've seen evidence from Revolut showing that another bank notified them that Mr R received fraudulent payments into his account on 22 and 31 August 2022. The payments were for a total of just over £5,000 and were paid into Mr R's account via bank transfer all from the same source.
- Mr R has explained his friend, who I will refer to as Mr G, had asked to use his account because he was having difficulties using his own account. I find it surprising that Mr R thought funds from his friend should be paid using a named reference unrelated to his friend, with no evidence of links between Mr R's friend and the sender of the funds. Even more surprising is that Mr R didn't question why he was being sent funds in this manner. With this in mind I think Mr R knew or ought reasonably to have known, that the account was being used for fraudulent purposes.
- Revolut has provided evidence to show that Mr R moved the money paid into his accounts within minutes of the funds crediting his account. On 30 August 2022 at 19:23 hours £3,500 was paid into Mr R's account. At 19:27 hours £3,400 was transferred to an existing cryptocurrency account. Another fraudulent payment of £1,500 was paid into Mr R's account payment at 19:30 hours. At 19:32 hours the

whole amount was transferred out to the same cryptocurrency account. Mr R hasn't disputed these transactions, so it's likely he was responsible for moving the fraudulent funds quickly through his account and onto another. I think this action is significant. Mr R hasn't offered any explanation for why he did this. And why he only sent on £3,400 of the first payment. I think this suggests Mr R was most likely expecting the payments that were paid into his account in August 2022. And benefitted from fraudulent funds.

- If Mr R had been the unwitting beneficiary of fraudulent funds, as he's suggested, I would've expected him to alert Revolut at the time in order that his account could be safeguarded against fraud. But I haven't seen that he did so.
- Mr R hasn't provided any evidence about his arrangement with his friend which would support his explanation. The only evidence he's provided is a screenshot which suggests others are involved. Having looked at the screenshot I'm not persuaded that this shows Mr R was an unwitting beneficiary of fraudulent funds as he's suggested. It doesn't give a complete account of how Mr R became involved. I not too, from looking at Mr R's Revolut account statement that Mr R had been transacting with Mr G since July 2022. So, it's not clear to me why Mr R was happy to receive money from others on behalf of this individual when it appears Mr R was able to send and receive payments from Mr G's account without any issues.
- I've considered what Mr R says about his age and the impact the marker has had on him. But he hasn't described being placed under any duress or being especially vulnerable. In my view I think it's most likely he allowed his Revolut account to be used for receiving fraudulent funds. And I think he was a willing participant in this and in moving the money on and reasonably knew this wasn't a legitimate activity.

When I weigh everything up, I'm not persuaded by Mr R's version of events that he knows nothing about the fraudulent payments. Having looked at all the evidence, I think there would've been good grounds to report the events here to the police to investigate, and that Revolut was therefore justified in placing a CIFAS marker against Mr R's name. I think the evidence shows that Mr R was involved in a deliberate misuse of facility as a money mule. I also think it more likely than not that Mr R knew rather more about the account activity than he's told Revolut or this service. So, I won't be asking Revolut to remove the marker.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 April 2023.

Sharon Kerrison
Ombudsman