

The complaint

Mr A is complaining on behalf of M, a limited company he's the director of. The complaint is that M hasn't been refunded by Revolut Ltd after money was lost to a scam.

Although M is the complainant, it is Mr A that had all the dealings with the scammer and Revolut, so I'll mostly refer to him throughout this decision.

What happened

Mr A was contacted by someone claiming to be working on behalf of HMRC on 28 March 2022. The caller said Mr A had taxes unpaid and as a result he'd been fined. He was told that he could be arrested and have his visa revoked if he didn't immediately pay what was owed.

Mr A didn't realise at the time, but he was speaking with a scammer.

Mr A checked the number he was being called from and found it was the number for the Ministry of Justice. Mr A has explained how this made the call seem very convincing and genuine. He's also explained how the scammer knew some personal information about him and about M.

Mr A did owe HMRC money at the time and he'd been putting off making the payment. Mr A wasn't then completely surprised at being contacted about unpaid taxes. Mr A says the scammer knew the amount of tax outstanding.

The scammer talked Mr A through what was owed. This started with the unpaid tax and then went on to include other payments for fines, court fees, and solicitor's costs. Mr A went on to make six payments to a new payee, as instructed by the scammer. The first was made at 15:19 and the last at 16:07. When asked to send a seventh payment, Mr A realised something was wrong and that he'd been scammed, so he contacted Revolut immediately.

The times of the scam payments are given in the table below:

Time	Amount
15:19	£967.44
15:41	£1,251
15:46	£998
15:50	£1,521
15:52	£1,498
16:07	£350

Revolut attempted to recover the money from the receiving account. But it had all been removed and so nothing could be returned to M's account. Revolut went on to consider whether it would refund M. But as the payments were all authorised Revolut said it wouldn't do so.

Revolut also said that it had presented scam warnings to Mr A as he was making the payments.

Mr A brought M's complaint to this service as he disagreed with Revolut's answer. One of our investigator's upheld the complaint and recommended a partial refund. He said that by the time of the fourth payment the activity on M's account demonstrated enough risk factors to suggest that M might be at risk of financial harm through fraud. That meant Revolut ought to have acted by stopping payments and speaking with someone at M. He said the warnings provided by Revolut weren't enough to discharge its fraud prevention obligations.

Our investigator was satisfied that intervention by Revolut would have revealed the scam and prevented any further loss to M. He recommended Revolut refund M from the fourth payment on, adding interest at 8% simple per year.

Our investigator considered Mr A's actions in authorising the payments on M's behalf, thinking about whether M ought to bear some responsibility for the loss from payment four onwards. He felt that the scam had been sophisticated, particularly the number spoofing element, and had clearly caught Mr A off-guard. He said Mr A had – on M's behalf – acted reasonably and so made no deduction to the refund.

Revolut didn't agree and so the case has come to me for 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.

Generally speaking, a company like M will bear responsibility for any payments out of its account that are properly authorised. That responsibility is set out in the Payment Service Regulations 2017. There's no argument here as to whether the transactions were authorised; all parties agree Mr A made them on M's behalf.

Revolut has an obligation to follow the instructions it receives from its customers. And it should do so with minimal friction and delay. But there are times when Revolut – or any other account provider – ought to stop payments and ask questions of its customer to establish the legitimacy of the instruction. The establishment of legitimacy not only means making sure they payment is properly authorised, it also means making sure the customer isn't at risk of financial harm through fraud. That is to say, Revolut must have systems and precautions in place to help stop its customers falling victim to scams.

Part of those systems and precautions means monitoring accounts for unusual and out of character activity and being on the lookout for known scam indicators.

Should Revolut have stepped in to question the payments being sent from M's account?

I'm satisfied Revolut ought to have recognised M was at risk of financial harm through fraud at payment four. It's at this point where several different risk factors have converged, marking the account activity out as unusual.

All payments were being made to a new payee. The use of a new payee is not a clear risk indicator on its own. Account must be taken of what else is happening. For instance, the first payment value is relatively low. And so, the transaction doesn't look unusual in isolation. Making a one-off, low-value payment to a new payee is very commonplace and so it's understandable Revolut felt no need to act here. That remains true for payments two and three as well.

What is worth noting though, is that there's very little evidence of new payees being set up on M's account. The faster payments that are made from the account over the preceding months tend to be to the same, long-established payees. Established payees carry a lower fraud risk given they have been tried and tested over time. It's fair to say the establishing of new payees of M's account was not a regular activity.

Following the first payment at 15:19, we then see three more payments quickly made to the same payee – meaning four are made within thirty minutes. It's fair and reasonable to say

that the activity becomes more unusual – both generally and for this account specifically – with each additional payment, in quick succession, to the same payee.

This pattern of repeated payments to a new payee is very common for this type of scam and so is an indicator that a customer might be at risk. Revolut ought to have been aware of – and on the lookout for – this at the time.

Revolut has argued that business customers will often make repeated payments in quick succession to the same payee. It's suggested this might be to cover various invoices, with money owed to the same payee for different reasons. It's provided no supporting evidence of this, though I can accept it might happen as a general point. What the evidence for this complaint does show, is that such activity was not being conducted on M's account. I can't see any examples of a new payee (or an existing one) being paid repeatedly within an hour, or even a day or week. And so, it was uncommon for M's account to be used in this way.

I've considered the impact these unusual transactions have on the balance of the account too. What can be observed is the balance dropping drop over £6,000 down to little more than £600. Much of that reduction – 85% of the account balance – has occurred with the setting up of the fourth payment. I'm satisfied this presents another concerning factor Revolut ought to have taken into account.

I have thought about the arguments Revolut has put forward. Some of what I've said already directly addresses those arguments. But it's also said that when the account was set up for M it was told:

- M would conduct 10-100 transactions per month;
- M might carry out volumes of transfers from between €10,000 and €100,000;
- M might carry out a single transaction to the value of €20,000.

Revolut says that, because of these indications given by M when the account was opened, all the fraudulent activity was within expected limits. I don't find this to be a persuasive argument for not stepping in to prevent fraud. If Revolut were to only consider intervening when these parameters had been breached, it seems fair to say it would rarely ever prevent a scam.

It's also unclear how these parameters are actually established, and what alternative options might have been indicated at the point the account was applied for.

Overall, I'm satisfied Revolut ought to have intervened at payment four, and so it ought to refund M from that point on.

I'm also satisfied that intervention would have made a difference. It doesn't appear as though Mr A was given a cover story to present to Revolut, had it started asking questions. And, as the expert in the relationship, Revolut ought to have been able to ask suitable probing questions to establish what was happening and why Mr A was moving M's money. There were enough known features of an impersonation scam for Revolut to have broken the scammers spell and prevented further loss to M.

I acknowledge Revolut did present some warnings to Mr A when he was making the payments. But my findings are that it ought to have intervened directly.

Should M bear some responsibility for the loss?

I need to consider Mr A's actions here. He was the authorised party acting on M's behalf. And so, it's whether he acted reasonably in the circumstances that needs to be assessed. Having considered the circumstances of the case I find Mr A did act reasonably, and so there's no deduction to what Revolut should now refund.

Revolut has suggested that Mr A, as a director, ought to be particularly aware of safeguarding company funds and that he also ought to be aware of HMRC processes and

procedures. I can agree with what it's said here, to a degree. But it's important to consider the circumstances of the scam and the factors that led to Mr A falling into the scammers trap.

Mr A was called on a spoofed number. Mr A had every reason to believe it was someone from the Ministry of Justice calling him, given that's the number that showed up on his phone. Many people, including those that are directors of companies, will not be aware of a fraudster's ability to spoof a phone number. So when a call comes through a great deal of faith is put in the phone number that is displayed. This fact alone meant Mr A was deeply hooked into the scam from the outset.

I note that the warnings provided by Revolut didn't refer to impersonation scams or a fraudster's ability to spoof phone numbers. And so Mr A received no live education, in the moment, about what to be on the lookout for or what to be wary of.

Mr A has provided evidence to show that he did have an outstanding HMRC bill. That may have been a complete coincidence or a lucky guess on the scammers part. Or it might be that genuine correspondence had been intercepted at some point. But the effect of this was to make the call seem legitimate.

Mr A knew he had an unpaid tax bill. And the genuine HMRC correspondence he had received had told him he'd be pursued for that unpaid bill. The call from the scammer was then not entirely surprising or completely unanticipated.

The scammer also used emotional manipulation to confuse Mr A and prevent him from thinking things through as clearly as he otherwise might have done. The scammer incited fear and panic by not only going through the financial implications of not complying, but also talking about Mr A being arrested and having his visa revoked. Those appeared to be very real risks to Mr A, especially considering the convincing aspects of the scam I've already discussed.

It's true that Mr A made payments to an account in the name of an individual, rather than a business or institution. And that might fairly be said to cast some doubt on what Mr A was being told to do. Mr A has explained that he was told he was paying the attorney who was handling his case on behalf of the Ministry of Justice and HMRC, and that they would arrange payments of the charges and fees.

I don't consider that to be a particularly persuasive explanation by the scammer. But I don't find it's such a questionable feature that it means it ought to have overcome the very persuasive elements I've discussed already.

I've considered all the available evidence and I don't believe Mr A – acting on behalf of M – behaved unreasonably in the circumstances. I don't make any deduction to the refund due from Revolut as a result.

Recovery of funds

Mr A let Revolut know about the scam quickly and asked that it stop or reverse the payments he'd made. Revolut rightly said that wasn't possible. Instead, Revolut had to try to pursue the funds through the receiving accounts in an attempt to recover anything that might have remained.

My understanding is that the money went to accounts held within a territorial jurisdiction outside of the UK. Revolut was then more limited in what it might have done than had the accounts been held domestically. Nonetheless it appears the scammers moved the funds on within moments of them crediting the receiving accounts. And so it seems the prospect of recovering anything at the time was always remote at best.

Putting things right

If Mr A accepts these findings on behalf of M Revolut should:

- Refund M's loss from payment four onwards (£3,369)
- Pay interest on that amount at 8% simple per year, calculated from the date of payment to the date of settlement

My final decision

I uphold this complaint against Revolut Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 3 August 2023.

Ben Murray
Ombudsman