

The complaint

Mr E 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.

In February 2022 Mr E saw an advertisement on a well-known video sharing website regarding investing in cryptocurrency. He began communications with the company and was persuaded to invest, but unknown to him at the time he was dealing with fraudsters.

Mr E made three payments from his Revolut account, totalling £5,170, to two separate accounts that were controlled by the fraudsters. A breakdown of the payments is listed below;

10 February 2022	£1,000 (to beneficiary one)
11 February 2022	£1,960 (to beneficiary one)
24 February 2022	£2,210 (to beneficiary two)

Mr E became suspicious when he was given excuses for why he couldn't withdraw any funds and was asked to make a further payment, for 'broker fees', to enable a withdrawal to be made, which Mr E refused to pay.

Mr E raised the matter with Revolut, via an online chat function, in March 2022. Mr E initially told Revolut that he hadn't authorised the transactions. Revolut asked Mr E for further information, to enable it to look into things, but Mr E didn't respond. The complaint was then raised with Revolut on 29 July 2022, it again asked Mr E for further information and as it didn't receive a response it issued its final response, on 2 August 2022, not upholding the complaint.

Unhappy with Revolut's response Mr E, through his representatives, brought his complaint to this service. One of our Investigator's looked into things and didn't think the complaint should be upheld. In summary, while he recognised Mr E had made the payments as a result of fraud, he didn't think Revolut could have been expected to prevent it. He said this because he didn't think Revolut had missed an opportunity to identify the payments were being made in relation to a scam.

Through his representatives, Mr E didn't agree with our Investigator's view. In summary, he maintained the payments made were uncommon, as there had been no such transaction history throughout the entire history of the account.

Since issuing their view our Investigator has asked Revolut to provide details of the attempts it made to recover the money Mr E had lost from the beneficiary banks (the banks to which the payments were made). Revolut confirmed that it contacted both the beneficiary banks. It said it didn't receive a response from the bank to which the payment for £2,210 was made (beneficiary two in the table above). But it said the other bank (beneficiary one in the above

table), responded to say it had already returned the payment for £1,960 to Mr E's Revolut account on 25 February 2022, and the payment for £1,000 had been returned to his Revolut account on 13 May 2022. Revolut has confirmed that these credits were applied to Mr E's account. This information has been shared with Mr E, through his representatives.

As agreement couldn't be reached the complaint has been passed over 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.

There appears to be some differences and contradictions in the version of events presented to Revolut and this service by Mr E. When Mr E first raised the matter with Revolut he told it he hadn't authorised the transactions, but later confirmed that he made the transfers. Mr E also told this service that the fraudsters advised him to open a Revolut account, but the evidence shows the Revolut account was opened by Mr E several months before the scam took place. It also isn't clear why Mr E has raised a claim to Revolut in July 2022, requesting a refund of payments that had already been returned to him.

Where there is conflicting evidence, as there is here, it is difficult to know precisely how events unfolded. So in such situations, I am required to reach my decision based on the balance of probabilities – in other words what I consider most likely given the available evidence.

In any event, it doesn't seem to be in dispute that these payments were made as the result of a scam and I'm persuaded that Mr E authorised them. So the crux of the matter, and what I must decide, is whether I consider Revolut did enough to protect Mr E at the time he made the payments.

I can see that in his submissions to us Mr E has referred to the Lending Standards Board Contingent Reimbursement Model ('CRM') Code. But the CRM Code doesn't apply in this case because Revolut aren't signed up to it.

But even though the CRM code may not apply here, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry standards, there are circumstances where it might be appropriate for Revolut, as an electronic money institute ('EMI'), to take additional steps or make additional checks before processing a payment in order to help protect its customer from the possibility of financial harm from fraud.

Revolut had an obligation to follow Mr E's instructions when he requested for these transfers to be made. But it 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.

But there are some situations in which it should reasonably have had a closer look at the circumstances surrounding the transfers - as I've explained, I consider that as a matter of good practice Revolut should've been on the lookout for unusual and out of character transactions. But on balance, I can't fairly say that the transactions in this case were so unusual or suspicious, that they ought to have alerted Revolut that Mr E was at risk of financial harm.

To identify a payment as being out of character requires a meaningful payment

history to deviate from. In this instance, Mr E had opened his account a few months earlier, but it had been dormant until the time of these disputed payments. So it would be more difficult for Revolut to have identified any individual payment as being out of character.

I've considered if there was anything else about the transactions that ought to have caused Revolut cause for concern, but I don't find that there was. There is no suspicious pattern of spending and I don't consider the amounts Mr E was paying were such that they in and of themselves ought to have caused Revolut to be concerned. I also don't think there would have been an obvious link for Revolut to have picked up that Mr E was making a payment for the purpose of investing in cryptocurrency, which can sometimes, but of course not always be the indicator of a scam. I say that as the payments here weren't being made to a cryptocurrency based platform, rather they were being paid to two other payment service providers.

I appreciate that overall, Mr E has lost over £5,000, which is a significant amount of money. But I don't think, in the circumstances of this case, the payments Mr E made would have appeared so remarkable, that I could fairly and reasonably have expected Revolut to have been concerned that Mr E may have been at risk. I don't think it could have foreseen that he was potentially falling victim to a scam, and not to an extent whereby it should have made additional checks on the payments Mr E was making.

Finally, I've also thought about whether Revolut could have done more to recover the funds after Mr E reported the fraud. As I've mentioned above, the first two payments Mr E made had already been returned to him prior to him raising his complaint with Revolut. Revolut did try and recover the other payment Mr E made, but it didn't receive a response from the beneficiary bank.

Where Mr E didn't initially respond to Revolut's request for further information, when he first raised the matter with it in March 2022, I can understand why Revolut didn't contact the beneficiary bank at that time. But even if it had of done, I don't think it would have made a difference. I say that as a number of weeks had already passed at that point, since Mr E had made the transfers. It's common in cases such as this that fraudsters remove money from the receiving account at the earliest opportunity. Fraudsters are alive to the fact that once payment service providers have a fraud reported to them, the funds are recalled. This means that the fraudsters tend to remove the money from the receiving account to prevent the loss of their ill-gotten gains.

It's very unfortunate Mr E has lost this money in this way, and I understand the whole experience has been deeply upsetting and I do have a great deal of sympathy for him. But in the circumstances, I don't think I can fairly or reasonably say Revolut should have done more to prevent Mr E from losing this money. So, I don't think it would be fair for me to ask Revolut to refund the loss.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 12 May 2023.

Stephen Wise
Ombudsman