

The complaint

Mr J complains that Revolut Ltd (Revolut) won't refund the money he lost when he fell victim to a scam.

What happened

The details of this complaint are well known to both parties. So rather than repeat them all again here, I'll briefly summarise the key points.

In early December 2021, Mr J was called by someone claiming to be from the fraud team of a bank he is a customer of ('N') – but who, it transpires, was actually a scammer. He tried to validate the call by ringing N's official number. It seems the scammer tricked him by staying on the line, so it appeared as though they had picked up the call to that number. They also sent texts from a spoofed bank number and created fake records of a safe account and fraud refund.

At the scammer's behest, Mr J made numerous payments from several bank accounts. This included the following payments from his Revolut account:

Date	Amount	Description
05/12/2021	£21,000.00	Transfer to cryptocurrency
05/12/2021	£19,900.00	Transfer to recipient A
06/12/2021	£9,999.99	Transfer to recipient B
07/12/2021	£10,000.00	Transfer to recipient B
07/12/2021	£9,500.00	Transfer to recipient B
07/12/2021	£9,499.99	Transfer to recipient C
08/12/2021	£5.00	Transfer to recipient D
08/12/2021	£10,000.00	Transfer to recipient D
08/12/2021	£10,001.00	Transfer to recipient E
08/12/2021	£9,640.00	Transfer to recipient E
10/01/2022	-£19,900.00	Refund from recipient A
Total	£89,645.98	

It seems Revolut then blocked Mr J's account. He realised he'd been scammed a week or so later and reported this to Revolut. As shown in the table above, it was able to recover the payment of £19,900. But it wasn't able to recover any more, nor did it agree to refund him directly.

Unhappy that he hadn't been refunded in full, Mr J referred the complaint to our service. Our investigator didn't uphold it. He thought Revolut should have completed further checks given the unusual account activity. But he wasn't persuaded it would have succeeded in uncovering the scam. Mr J disagreed so the case was passed to me to decide.

I then contacted both parties directly. I asked Mr J where the funds had been transferred from, and why he thought further checks would have uncovered the scam. And I asked Revolut for more information about the warnings it's told us were displayed when Mr J made some of these payments, and about the restriction it placed on the account.

Taking their response into account, I then issued my provisional decision explaining why I was minded to uphold the complaint and what I was minded to award:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm minded to uphold it – and to direct Revolut to refund 50% of Mr J's loss from the fifth payment (£9,500.00 to recipient B) onwards. I'll explain why.

In line with the Payment Services Regulations in force at the time, Revolut is expected to execute authorised payment instructions without undue delay. Although Mr J has explained he was tricked, it's clear he requested these payments. So the starting position is that he, rather than Revolut, is liable for them.

Revolut also monitors for payments which are out of character for its customer, or which otherwise indicate a fraud risk. It takes further action before processing such payments – such as displaying a warning or asking the customer about the circumstances of the payment. If Revolut ought to have identified a fraud risk but failed to intervene appropriately, and that failure led to a fraudulent loss, it might be fair to hold it liable.

Revolut has already told us that it displayed warnings to Mr J that some of these payments were identified as “highly suspicious” – although it hasn't, despite my request, told me which. So I've come to my own view on when I think it ought to have been concerned.

I think Revolut ought to have identified the first cryptocurrency transfer as suspicious. Mr J didn't have a history of dealing in cryptocurrency. And it was ten times higher than the next highest transfer made in the 12 months prior.

Although Revolut may have warned Mr J that the payment had been identified as highly suspicious, I'm not persuaded was a sufficient response to the fraud risk it did, or ought to have, identified. Particularly as the warning we've been shown gave no context to why it might appear suspicious, or what warning signs Mr J should be looking out for.

However, I'm not persuaded Revolut ought to have uncovered the scam at this point. I've reviewed a lot of information which satisfies me that he made all these payments as part of a 'safe account' scam – including a call he recorded between him and the scammer after uncovering what had happened. But that's probably not the type of scam Revolut would be most concerned about based on the cryptocurrency payment – which tend to me more commonly associated with investment scams.

Having spoken to Mr J about this scam, and having reviewed several other, connected cases he's referred to our service, I'm also conscious he gave various cover stories to banks about the reason for the scam payments. So although Mr J says he would have been forthcoming if questioned by Revolut, I struggle to see why he would have been, given that he wasn't with the other firms he spoke to. At the time, he was taken in by the scam – and he'd been warned not to divulge the real reason for making the payments.

I'd also point out that it's not very clear whether, and how, the cryptocurrency payment was lost to the scammer. From what Mr J has said, I understand he was directed to set up cryptocurrency wallets with two different, legitimate providers. But I've not been able to get much information about what happened to the funds once they left his Revolut account.

I can also see a substantial payment into Mr J's Revolut account from one of these wallets shortly after. That suggests not all the funds from this payment were lost to the scammer.

On the same day as the cryptocurrency transfer, Mr J transferred almost £20,000 to a new payee. Again, thinking about the account turnover that day as the size of the payments, I think Revolut ought to have identified that as suspicious and talked to Mr J about what he was doing. But for similar reasons to those set out above, I'm not persuaded it ought to have succeeded in uncovering the scam at that point. I don't think Mr J would have given the real reason for the payment.

However, the next day Mr J transferred almost £10,000 to another new payee (recipient B). Followed by two further, large payments to that same recipient the following day. And another large payment to another new payee. By the time of the third payment to recipient B, I think Revolut ought to have intervened again. It ought to have been concerned about the activity, so should have spoken to Mr J to satisfy itself on whether all was well.

Although I still don't think Mr J would have been immediately upfront about what he was doing, I do think he would likely have been less prepared on what to say compared with some payments involving different banks. That's because it appears he received less coaching on what to say. The scammer may have anticipated it was unlikely Revolut would speak to him directly about the payments.

In the circumstances, I would have expected Revolut to have asked questions around why he needed to make so many high value payments to several payee in such a short span of time. Why did he need to pay recipient B £9,500 having already paid them £10,000 that day and £9,999.99 the previous day. Why would he not have known how much he'd need to pay them in total – or at least earlier that day? And why was he suddenly making lots of high-value payments to another new payee as well as to a cryptocurrency account?

I'm not persuaded Mr J would have had a reasonable explanation for all of this. And he's also explained he was uncomfortable about being asked to lie to his account providers. So I think this was likely a missed opportunity to have uncovered the scam. I think Revolut could well have succeeded in getting Mr J to have divulged what he was doing. And if he didn't, I think it should have had enough concerns about the account activity, and lack of reasonable explanations, to have refused further payments.

I therefore think Revolut should have prevented the payments Mr J made from the account from this point onwards. However, I've also considered whether Mr J should also be held partly responsible for the further losses incurred by way of contributory negligence.

In all the circumstances, I consider it fair to make a 50% deduction to the loss which I've found Revolut ought to have prevented to reflect. That's because:

- *Although the scammer used some sophisticated tactics, such as spoofing N's number, I think Mr J should have reasonably done more to check the legitimacy of what he was being told. Especially given the value of funds he was being asked to transfer and the number of different accounts he was directed to send these to.*
- *I think it should have seemed unusual to Mr J that the scammer directed him to download and use the app Telegram – as that's not how N normally contacts him.*
- *While he says he thought the firms he transferred money through were all working together, I can't see he took steps to check if they had any connections. And I think that should have seemed unusual, particularly as the instruction came (allegedly) from N, a bank – but he was also being directed to use cryptocurrency exchanges.*
- *Some of the recipient names Mr J was given for the alleged 'safe accounts' were names known to him. Whereas some were 'random'. I think this inconsistency ought to have struck him as odd, and to have called into question the legitimacy of what he was being told*
- *Mr J has also told us he felt uncomfortable about being asked to lie to his various account providers – suggesting he did have some reservations. Yet he continued until checking with N if the name given by the scammer was a genuine employee ten days into the scam.*

I therefore don't think Mr J did enough to reasonably satisfy himself that the scammer was legitimate. So although I do hold Revolut at fault, I consider it fair to reduce the compensation I'm awarding by 50% to reflect Mr J's contributory negligence.

For those payments which I've found Revolut isn't liable for failing to prevent, I don't think it could have done more to help retrieve the loss. It seems it promptly reached out to the beneficiary banks when Mr J reported the loss – and was in fact able to retrieve the payment of £19,900 sent to recipient A. I'm not persuaded it missed an opportunity to retrieve any more funds. Unfortunately, it's common in these types of scams that the funds are promptly moved on to avoid the risk of them being recalled.

I invited both parties to provide further comments or evidence before I made my final decision. Mr J has responded to provide a bit more information about the interest rate of the originating account. Revolut has responded to explain why it doesn't agree with my provisional findings. In summary, this is because:

- It doesn't agree that it should have found the initial cryptocurrency transfer suspicious as Mr J opened his cryptocurrency wallet with Revolut in January 2021
- It's also clarified which payment triggered as suspicious – and says Mr J ignored the warnings it then displayed.
- It doesn't think it's fair to make a hypothetical assumption of Mr J's potential behaviour. It points out that other banks were convinced by the explanations he gave. And it says that, even if Mr J didn't have a reasonable explanation, there wasn't anything to suggest it had grounds to refuse the payments.
- It feels Mr J showed determination to make these payments so doesn't think the questions I said it should have asked would have changed his mind.

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.

Having done so, I've come to the same conclusions as I did in my provisional decision (which I've set out above, and which also forms part of my final decision). As the reasoning is largely the same, I'll focus on addressing the points raised in response.

I appreciate Mr J already held an established cryptocurrency account. But based on the records Revolut have provided, it does appear the *particular* transaction I've said should have 'triggered' was unusual for him. I can't see that he had a history of making such large cryptocurrency payments.

In any event, I've determined that it wouldn't have been able to successfully intervene at this point. So whether or not this payment ought to have triggered doesn't affect my overall findings.

I've taken into account what Revolut has said about Mr J ignoring its warnings about the payments it identified as suspicious. But, as I explained in my provisional decision, I'm not persuaded the warnings were a sufficient response to the fraud risk identified. They gave no context to why the payments appeared suspicious. Nor did they provide Mr J with any insight into what warning signs he should be looking out for to protect himself from fraud.

Instead, as explained in my provisional decision, I think Revolut should have directly questioned Mr J about those payments I've determined it should have been suspicious about. That would have been a more impactful way to reassure itself about whether all was well.

Revolut is correct that I'm having to make an assumption about what would have happened if it had intervened appropriately. That will always be the case when we determine that a business didn't do what it should have done. It's my role to decide, on the balance of probabilities, what's more likely to have happened if it had done what it should have done. It's a case of making a *reasoned* assumption.

I have considered Revolut's point that other banks accepted Mr J's explanations. However, some of those banks have also upheld Mr J's complaints that they didn't do enough to protect him. In any event, I'm considering what ought to have happened on this account – from which the highest number of scam payments were made.

As my provisional decision explained, one key reason why I think Revolut could have unravelled the scam is the number of payments, to different payees – which would have made it harder for Mr J to have convinced Revolut about his reasons for all the payments. Especially as, compared to interventions from other banks, I've not seen anything to suggest Mr J had been coached on what to say if Revolut did intervene.

My provisional decision also acknowledges that Mr J likely wouldn't have been immediately forthcoming. But I've also explained why I think appropriate questioning, and warnings, would have uncovered the scam. Mr J was already uncomfortable being asked to lie. So I do think that, with questioning and warning from Revolut, it could have persuaded him to provide more information that would have made it, and him, realise he was being scammed.

Revolut says that, even if Mr J wasn't able to reasonably explain his actions, it wouldn't have had reason to refuse the payments. Notwithstanding what I've set above (including in my provisional decision) about why I think it could have uncovered things, Revolut would still have grounds to refuse the payments if it thought Mr J was going to fall victim to fraud. And so I think, if faced with no reasonable explanation for these suspicious payments, it would have had grounds to refuse the payments.

For these reasons, I'm therefore decided to uphold this complaint. I think Revolut's failures have contributed to Mr J's loss – but that he should also share some liability for this.

Putting things right

Revolut Ltd should refund 50% of Mr J's payments from payment five onwards, as set out in the table below:

Date	Amount	Amount to refund
05/12/2021	£21,000.00	£0.00
05/12/2021	£19,900.00	£0.00
06/12/2021	£9,999.99	£0.00
07/12/2021	£10,000.00	£0.00
07/12/2021	£9,500.00	£4,750.00
07/12/2021	£9,499.99	£4,750.00
08/12/2021	£5.00	£2.50
08/12/2021	£10,000.00	£5,000.00
08/12/2021	£10,001.00	£5,000.50
08/12/2021	£9,640.00	£4,820.00
10/01/2022	-£19,900.00	£0.00
Total	£89,645.98	£24,323.00

It appears these funds would have remained in the account they were transferred from had it not been for the scam. So Revolut Ltd should apply interest on the above refund, at the originating account rate, from the date the payments left Mr J's account to the date of settlement.

My final decision

For the reasons given, my final decision is that I uphold this complaint and direct Revolut Ltd to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 28 April 2023.

Rachel Loughlin
Ombudsman