

Complaint

Mr H is unhappy that Revolut Ltd (“Revolut”) recorded a fraud prevention marker against him.

Background

In July 2022, Mr H’s account received credits of £869.99, £50, £500, £8 and £200. The funds were quickly moved to an account with a third-party payment service provider. Revolut subsequently received a notification from the third-party bank which the payments came from stating that its customer had said they’d been scammed into making the payments to Mr H’s account.

As a result of the notification, Revolut took the decision to review Mr H’s account. Upon concluding its investigation, Revolut took the decision to close Mr H’s account and also record a fraud prevention marker.

Mr H complained. Revolut looked at Mr H’s complaint and didn’t uphold it. As Mr H remained dissatisfied he referred the matter to our service.

One of our adjudicators looked into Mr H’s concerns. He didn’t think that Revolut had done anything wrong or treated Mr H unfairly and so didn’t recommend the complaint be upheld. Mr H disagreed and so the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

The marker that Revolut has filed 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, it isn’t required to prove beyond reasonable doubt that Mr H is guilty of fraud or a financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance 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.”*

What this means in practice is that Revolut must first be able to show that fraudulent funds entered Mr H’s account, whether they were retained or merely passed through. Secondly, Revolut also needs to have strong evidence to show that Mr H was deliberately dishonest in receiving the fraudulent payments and knew they were, or might be, illegitimate. This can include Mr H allowing someone else to use his account in order to receive an illegitimate payment. But a marker shouldn’t be registered against someone who was unwitting; there should be enough evidence to show complicity.

To meet the standard of proof required to register a fraud marker, the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account in order to understand their level of knowledge and intention.

In order to determine Mr H's complaint, I need to decide whether I think Revolut had enough evidence to show fraudulent funds entered Mr H's account and that his actions suggest he was complicit in this. And having considered everything, I find that Revolut has done this here. I'd like to explain why in a little more detail.

There doesn't appear to be any dispute that the funds in question, which entered Mr H's account in July 2022, did so as a result of fraudulent activity. So the only matter which remains in dispute here is whether Mr H was complicit in allowing his account to receive these illegitimate payments.

Mr H has said that he didn't know that the funds were fraudulent. He says that someone he knew for a short period could help him make money through a business opportunity. He was told that he simply needed to provide his account details and he never asked any questions over how any money would be made.

I've thought about what Mr H has said. But, in truth, I'm satisfied that the available evidence shows that Mr H was more likely than not complicit in the fraudulent activity which took place.

I say this because the payments went to an account with a third-party payment service provider which Mr H used before the fraudulent funds went into his account. Furthermore, I note that despite already having at least three other accounts with other banks, Mr H opened this account not too long before the activity in question took place. In my view, this suggests that Mr H opened this account because he had concerns over the legitimacy of what he was getting involved in and he didn't wish to risk his own funds by using one of his existing accounts.

Finally, I'm also mindful that Mr H hasn't provided anything at all to corroborate what he's said about him being persuaded to invest in a business opportunity either. And I'd expect him to have some kind of record in circumstances where he reasonably believed that he was entering into a legitimate enterprise.

I'm afraid that all of this means I can't reasonably conclude Mr H was an unwitting participant here. Instead, I think that Revolut was reasonably entitled to conclude that Mr H was complicit in the fraudulent activity which took place on his account and record a fraud marker in the circumstances that it did. So I don't think that Revolut acted unfairly towards Mr H and I'm not upholding this complaint.

I appreciate this will be very disappointing for Mr H. But I hope Mr H will understand the reasons for my decision and that he'll at least feel his concerns have been listened to. Furthermore, Mr H might find that he's able to open an account with another bank as long as he applies for a Basic Bank Account, rather than a full Current Account or any such equivalent.

My final decision

For the reasons I've explained, I'm not upholding Mr H's complaint.

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

Jeshen Narayanan
Ombudsman