

The complaint and what happened

Ms S complains Revolut won't reimburse money she lost to an investment scam.

The background to this complaint is well known to both parties, so I will only send out the key points of what happened and focus on giving reasons for my decision.

- Ms S had been signed off work due to a foot injury and had spent some time in hospital. Whilst there she signed up to a dating site and met someone online. Ms S says she was led to believe the other party worked for a bank in London and he started to provide her with investment tips.
- Between the end of September 2022 and the end of October 2022, Ms S invested over £29,000 into crypto-currency and associated fees. This included money Ms S had borrowed from family. The scam came to light when she was asked to pay further withdrawal fees.
- Ms S raised the matter with Revolut but it didn't reimburse any funds, and it didn't uphold her complaint either.
- Our investigator partially upheld the complaint. She was satisfied Revolut ought to have intervened on the fifth payment, which was for £7,999. This was because the pattern of payments was unusual, and matched known fraud patterns. But she also found Ms S was contributory negligent. And so she asked Revolut to refund 50% of the loss from that point on and adding 8% interest. Revolut agreed and has paid the redress. But Ms S, through her representative, didn't.
- They provided medical records and other information to support that Ms S was vulnerable at the time of the scam and so they didn't believe a 50% reduction was fair. The investigator wasn't persuaded to change her view and so the matter has been referred to me for review and determination.

I issued my provisional decision on 14 September 2023 explaining why I was minded to require Revolut to pay more redress to Ms S. I said:

It doesn't appear to be in dispute that Ms S fell victim to a scam or that Revolut ought to have intervened when the fifth payment was made, and had it done so the scam would have unravelled and prevented any further loss. What is in dispute is whether there should be a deduction for contributory negligence. My provisional findings will therefore only focus on this issue, in order to decide a fair outcome.

The investigator felt Ms S was equally responsible for her losses, as she felt there were clear warnings that she was falling victim to a scam; she never questioned why someone from a dating site was asking her to invest large sums; she agreed to invest life savings after only knowing someone for a couple of weeks; she didn't carry out any due diligence to ensure the investment opportunity was legitimate and had she involved her family earlier (as she had done later) the scam would have come to light far sooner and losses prevented.

Ms S's representative disagreed. It has provided evidence that it considers shows Ms S was vulnerable at the time and as such there shouldn't be a deduction at all. In summary:

- *Ms S was assaulted by a spiritual healer.*

- *At the time of the scam, Ms S was signed off work and had a suicide prevention emergency plan shared with her family.*
- *Ms S had previously been diagnosed with a neurological disorder which affects her memory and her decision-making abilities.*

Although I have only summarised the information, I would like to reassure Ms S and her representative that I have read and considered everything provided. And having done so, it doesn't appear that much of what we've been given is truly relevant to the matter at hand and so I question why it has been relied upon by the representative at all.

I say this because:

- *The fit notes show Ms S was signed off due to a foot injury. I'm not persuaded there is anything about this type of medical event that would make a person more susceptible to falling victim to an investment scam.*
- *The medical records show Ms S was assaulted in July 2019. This was over three years prior to the scam occurring. Again I'm not persuaded an event that happened so long before the scam would have any bearing on her being susceptible to it.*
- *Ms S discovered and reported the scam on 1 November 2022. Her medical records from 9 November show she had felt suicidal from Monday – something had happened, but she refused to say what. Monday was 7 November, so a week after she had already discovered the scam. This means Ms S wasn't under suicide watch at the time of the scam, as reported by her representative. And the medical records indicate her state of mind wasn't as a result of the scam – the records show she did talk about the scam but had refused to disclose what had happened on the Monday that made her feel that way.*

I'm therefore not persuaded any of the arguments made by the representative in relation to the above have a bearing on whether Ms S was vulnerable to being scammed, such that she shouldn't be held partially responsible for her loss.

That said, I fully accept that Ms S's neurological disorder is known to impact on memory and decision making. And so I do accept this, in and of itself, could very well have meant she was susceptible to falling victim to a scam and therefore ought reasonably to be taken into account.

Ms S appears to have placed significant trust in someone she had never met, and who she had only been speaking to for a matter of weeks. The representative has said the messages show the scammer was abusive and exploited Ms S. But neither it nor Ms S have been able to provide a copy of the messages such that I can take them into account or decide whether her actions were reasonable in the circumstances.

I'm also aware that Ms S didn't carry out any due diligence into the investment opportunity to ensure it was legitimate. Revolut did think the second payment Ms S made was suspicious. It messaged her, telling her the payment was high-risk. She confirmed the payment was for investment purposes and Revolut provided an investment scam warning, indicating that legitimate opportunities wouldn't be arranged over social media and that investment companies would be registered with a regulator, such as the FCA.

This was comparable with Ms S's opportunity, which was offered and conducted over a messaging service. And despite the warning given by Revolut, Ms S didn't carry out any due diligence into the opportunity. I haven't been able to find out any information from the time about the investment or the platform – and that distinct lack of information for what had been

presented as a great investment ought to have been concerning. I'm therefore satisfied that Ms S's actions, or lack therefore of, have contributed to her losses.

This matter is finely balanced. As set out above, I fully accept Ms S's decision making is affected by her condition. But I also have to bear in mind, that there is little evidence that she is unable to her handle her own financials affairs such that provisions were or ought to have been put in place. Both parties have contributed to the losses, and I'm not persuaded Ms S's condition means she should bear no responsibility for her part in that. However, I'm also not persuaded she should bear equal responsibility, particularly given the balance of knowledge and experience between the parties. I therefore find it fair that Revolut should be held responsible for 75% of the losses from the fifth payment and Ms S 25%.

Revolut has already refunded 50% of the loss from that point - £12,051.50 and 8% interest, so I'm minded to ask it to pay the difference.

Ms S and her representative confirmed they had nothing further to add. Revolut said it wasn't aware of any of Ms S's vulnerabilities such that it could have taken them into account. It considers it unfair that Revolut is the only institution responsible for the financial loss while ignoring the responsibility of any external banks that surely held further information about the customers behaviour. It highlighted that three top-ups to the Revolut account came from an external account and happened within a 30 minute window.

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.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that an Electronic Money Institution ("EMI") such as Revolut is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable that Revolut should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice Revolut sometimes does); and
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

Revolut has already accepted in this case that it ought to have provided a better warning to Ms S when she was making the fifth payment to what she thought was an investment opportunity – indeed, it has already refunded some of Ms S's losses to her from that point.

For the sake of completeness, I agree it should have provided a warning to Ms S at that time given the payments being made matched known fraud patterns. Although it had intervened in an earlier payment and provided Ms S with a generic warning about investment scams, that didn't go far enough. Whilst some features were comparable with the scam Ms S was falling victim to, there was no mention of crypto-currency in the warning or how Ms S could take steps to protect herself from fraud involving that.

The only point that remains in contention is how much Revolut ought to be refunding to Ms S. I fully accept that Revolut wasn't aware of Ms S's vulnerabilities at the time, such that it could have taken them into account. My reference to them wasn't in relation to whether Revolut could and should have done more at the time the payments were made, but the extent to which Ms S was susceptible to the scam she fell victim to and whether, therefore, she should be held liable for any of her losses. As the parties know, I found Revolut ought to be responsible for 75% of Ms S's losses, with Ms S being responsible for the remainder.

I understand Revolut finds it unfair it is the only institution being held liable for the losses and believes the responsibility of external banks is being ignored. But Ms S has only referred a complaint about Revolut to our service. I accept its *possible* that other firms might also have missed opportunities to intervene or failed to act fairly and reasonably in some other way, and Ms S could instead, or in addition, have sought to complain against those firms. Ms S has chosen not to do that and ultimately, I cannot compel her to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Ms S's compensation in circumstances where she has sought to only complain about one firm from which they might be entitled to recover losses; she hasn't complained about any other firm (and so is unlikely to recover any amounts that might be apportioned to other firms); and where it is appropriate to hold a business such as Revolut responsible (that could have prevented her loss and is responsible for failing to do so). That isn't, to my mind, wrong in law or irrational but reflects the facts of the case and my view of what is fair and reasonable.

Ultimately, I must consider the complaint that has been referred to me (not those which haven't been or couldn't be referred to me) and for the reasons I have set out above, I am satisfied that it would be fair to hold Revolut responsible for Ms S's loss from the fifth payment (subject to a deduction for Ms S's own contribution as previously set out).

Although I have carefully considered the points made by Revolut, they haven't caused me to revise my findings.

My final decision

For the reasons given, my final decision is that I uphold this complaint. I require Revolut Ltd to:

- Reimburse Ms S £6,025.75, and
- Add 8% simple interest per year to that amount from the date of payment to the date of settlement.
- Revolut should make settlement within 28 days of being notified of Ms S's acceptance of my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 16 October 2024.

Claire Hopkins

Ombudsman