

The complaint

Mrs H complains that Revolut Ltd won't refund money she lost when she fell victim to an investment scam.

What happened

The details of this complaint are well-known to both parties and have also been previously set out by the investigator. So, I'll provide an overview and focus on giving my reasons for my decision.

The complaint concerns several payments totalling just under £75,000 to a cryptocurrency provider, which were made from Mrs H's Revolut account between May and June 2023. These were made in connection with an investment opportunity offered by a firm "B", which Mrs H says turned out to be a scam.

Mrs H's Revolut account was opened under the instructions of the scammer as part of the scam. She transferred the funds into her account from her account with a high street bank – N – before sending them on to a cryptocurrency provider. Except for the first payment which was made using Mrs H's Revolut card, the payments were made via faster payments.

This decision only relates to Mrs H's complaint about Revolut's refusal to refund her. Her complaint about N has been considered separately.

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.

Given my research into B, I think Mrs H was likely scammed. The Financial Conduct Authority (FCA) issued a warning about it on the day Mrs H sent the first payment to R which she now disputes.

Under regulations and in accordance with account terms and conditions, payment service providers should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making that payment. There's no dispute that Mrs H made the payments or gave consent to the scammer to make the payments by granting them remote access, and so they are considered authorised.

But in accordance with the law, regulations and good industry practice, a payment service provider, including an electronic money institution (EMI) like Revolut, should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert it to potential fraud or financial crime, it might be fair and reasonable to hold it liable for losses incurred by its customer as a result.

EMIs are set up with the purpose of sending and receiving money and the type of payments they're generally used for tends to be somewhat different to banks and building societies. Often, the payments will be for larger sums. Where there's no previous account history, as was the case here, what should reasonably strike Revolut as concerning for a first payment isn't down solely to the transaction amount involved. I haven't seen any other factors at play here such that, in my view, Revolut should have been concerned and ought to have intervened and questioned Mrs H before executing her authorised instruction for the first disputed payment of £1,000 to a cryptocurrency exchange. Purchasing cryptocurrency is a legitimate exercise.

The second payment, which was made four days later, was for £15,000. Although it wasn't identifiably related to cryptocurrency, given the significant jump in the payment amount which followed a large credit into the account, I consider the transaction ought to have given grounds for suspicion. And it did, seeing as Revolut blocked the payment and directed Mrs H to its in-app chat feature based on the options she had selected during the payment journey. Although Mrs H had selected 'Payment for Goods and Services' as the payment purpose, and it provided a scam warning specific to that type of scam, during the in-app chat the agent also provided a 'safe account' warning.

When Mrs H mentioned she was trying to transfer money to her Binance account, the agent questioned why she'd selected goods and services as the payment purpose. She explained she was trying to buy Bitcoins. The agent went on to provide a warning about goods and services being advertised on social media and the importance of verifying the authenticity of the seller.

Given Mrs H had indicated cryptocurrency was involved, I consider Revolut ought to have probed further and used the interaction as an opportunity to warn her about the common features of investment scams involving cryptocurrency. We know this didn't happen as Revolut lifted the block, and the payment was allowed to go through. The next transaction, also on the same day and for the same amount, was also blocked and Revolut made similar enquiries through the in-app chat. On that occasion as well, it didn't probe the transaction further. So, in my view, an opportunity was missed on both occasions.

But that's not the end of the matter. Causation is a critical determinative factor. It isn't enough that Revolut failed to make sufficient enquiries. I need to be persuaded, on balance, that such an intervention would have positively impacted Mrs H's decision-making. Having thought about this carefully, I'm not persuaded that further probing along the lines I've mentioned would have stopped Mrs H in her tracks.

I say this because Mrs H has told us the scammer had instructed her to lie to her account providers if the payment was flagged as suspicious. By her own admission, she had been trained on how to respond to their questions. I've listened to the calls Mrs H had with bank N, and she wasn't honest about the purpose of her payment and provided a cover story. Given this, I think it's highly unlikely that further questioning by Revolut at the time of the payments would have led to the scam being uncovered. So, on balance, I'm not convinced it could have stopped her from going ahead with the payments.

I've also thought about whether Revolut could have done more to recover the funds once it became aware of the situation. In relation to the card payment, the funds went to a cryptocurrency exchange. Mrs H wouldn't be able to make a successful chargeback claim in the circumstances because the merchant she paid did provide the service requested (i.e., conversion of fiat money into cryptocurrency). So, I don't think Revolut was under any obligation to raise a chargeback dispute for Mrs H.

In relation to the faster payments, I understand Revolut contacted the beneficiary bank once Mrs H reported the scam. But she notified Revolut nearly two weeks after the last disputed payment was made. Unsurprisingly, no funds remained in the beneficiary bank. Fraudsters tend to move funds out of the recipient account quickly in order to avoid them being recalled.

I know that Mrs H will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a lot of money involved here. Despite my natural sympathy for the situation in which she finds herself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for her loss.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 7 May 2024.

Gagandeep Singh
Ombudsman