DRN-4537087

The complaint

Mr M complains that Revolut Ltd won't refund money he lost when he fell victim to an employment scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide an overview and focus on giving my reasons for my decision.

The complaint concerns four transactions – faster payments – totalling £9,900 which Mr M made from his Revolut account in May and June 2023. They were made in connection with a job opportunity which required Mr M to complete tasks in return for a commission as well as salary - both paid in cryptocurrency. It was explained to Mr M that his cryptocurrency account also needed to be topped up as required to complete some of the tasks.

Mr M initially attempted to purchase cryptocurrency by making payments from his account with a high street bank. But when that bank refused transactions related to cryptocurrency, Mr M's 'mentor' instructed him to open an account with Revolut to make the cryptocurrency deposits. Mr M first transferred funds from his account with the high street bank into Revolut, before purchasing cryptocurrency on a peer-to-peer exchange. The cryptocurrency was then sent to cryptocurrency wallets as instructed by Mr M's mentor.

Unfortunately, the job opportunity turned out to be a scam.

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 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.

There's no dispute that Mr M made the transactions using his security credentials, and so they are authorised. But, in accordance with the law, regulations and good industry practice, a payment service provider including an EMI 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.

I can see that Mr M has said he considers the transactions made via Revolut were of a significant value. 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 taken additional steps when Mr M authorised the first disputed payment of £1,600 on 30 May to complete a peer-to-peer purchase. It's worth noting that Revolut couldn't reasonably have known that it was cryptocurrency related.

The next transaction, for £3,300 on 2 June, flagged on Revolut's fraud detection system. It says it asked Mr M to select the purpose of the payment from a list of options and displayed a warning based on the purpose selected. I understand that Mr M selected the 'goods and services' option. After displaying a warning covering the typical hallmarks of purchase scams, Revolut presented Mr M with the option to (1) read its scam guidance, (2) get advice from one of its agents, (3) cancel the payment, or (4) go ahead with it. The transaction didn't go through in the end, and Mr M has explained that this is because the purchase timed out before he could complete the transaction on Revolut's app. When he attempted the transaction for the second time on 3 June, Mr M was required to complete the same steps as Revolut intervened again. This time the transaction was executed according to Mr M's instructions.

The investigator's view was that Revolut should have provided a warning that was specific to cryptocurrency investment scams when Mr M authorised the transaction for £3,300. They said the beneficiary concerned appeared to have some involvement in cryptocurrency. But I don't agree with what the investigator has said in this regard. This wasn't a card transaction where Revolut would have had some information about the merchant requesting the payment, including the nature of their business. Here, as confirmed by Mr M, he purchased cryptocurrency via peer-to-peer purchase in the same way as the first transaction, i.e., via an electronic transfer using an account number and sort code. Revolut couldn't reasonably have known that it was a cryptocurrency related transaction from that information. I'd also add that I've checked, and the beneficiary account provider offers accounts to cryptocurrency and non-cryptocurrency firms.

Even if a Confirmation of Payee check happened before the payment was released, this would have simply involved checking whether the account name as entered by Mr M matched the account name held by the beneficiary's account provider.

As Revolut couldn't reasonably have known that the transaction was cryptocurrency related based on the merchant's name alone, I wouldn't have expected it to have provided a cryptocurrency specific scam warning based on the beneficiary details alone. In the circumstances, I consider that the steps Revolut took at the time – asking for the payment purpose and providing a written warning about the possible scam identified from the option selected – was a proportionate response to the risk involved.

For the sake of completeness, even if I had found that the payment was cryptocurrency related, and Revolut therefore ought to have provided a written warning about cryptocurrency scams, I'm not persuaded that it would have made a difference to the Mr M's decision-making. This is because I'm not satisfied that the kind of cryptocurrency warning I would have expected at that time – setting out the typical hallmarks of *investment* scams involving cryptocurrency – would have resonated with Mr M. He wasn't sending payments in connection with an investment. He understood he was using the cryptocurrency platform to deposit funds into his account to spend with his 'employer'. So, I think it's more likely than not that he would have seen a warning about investment scams involving cryptocurrency and disregarded it as he wasn't making an investment.

The last two transactions – £3,000 and £2,000 – were made on 7 June. Revolut has said it asked for the payment purpose and provided a warning based on the option selected ('goods and services') at these times. As these were peer to peer purchases as well and

weren't identifiably cryptocurrency related, I consider Revolut's intervention was sufficient in the circumstances.

Mr M submits that Revolut's warnings are flimsy and avatars that are extremely easy to bypass or avoid. He states that the payment reasons listed are bogus as Revolut never carries out additional checks or verifications. Mr M adds that his main bank stopped the transfer as soon as it realised the transaction was to buy cryptocurrency. I think it's important to reiterate that under the applicable regulations, a payment service provider's primary duty is to execute authorised instructions. But where a heightened risk of financial harm from fraud is identified, it is expected to respond to that risk. In deciding this case, my role is to consider the acts and omissions of the payment service provider being complained about, not another payment service provider.

So, it may well have been the case that Mr M's bank required him to complete a lengthy questionnaire prior to approving a transaction or stopping a transaction altogether. But I've explained above why I consider the steps that Revolut took at the time of the disputed transactions were proportionate to the risk involved. They served the purpose of identifying a fraud risk and providing a scam warning based on the payment purpose Mr M selected. It still fell on Mr M to review the information Revolut provided and decide whether he was happy to proceed.

Thinking next about recovery, these were "Push to Card" payments, where Mr M entered the recipient's long card number instead of their account number and sort code (or equivalent details for international recipients). It is my understanding that currently there's no clear mechanism to request a recall of funds sent in this manner. So, there's very little chance of recovery.

Unconnected to the job scam, I understand Mr M didn't receive the cryptocurrency he intended on buying with the last two transactions. He says the platform he used to make the purchase suggested he asks Revolut to raise a chargeback. But chargeback is a dispute mechanism for transactions made on a card, and Mr M didn't pay with his card. That is what Revolut has also told our service – chargebacks can't be raised on Push to Card transactions. In any event, if the seller of cryptocurrency had fraudulent intentions, it's very likely they would have quickly utilised the money Mr M had sent, preventing any chance of him getting it back even if there was a recovery mechanism for Push to Card transactions. I understand the cryptocurrency platform advised Mr M that they had blocked the seller's account. But that would have been the seller's cryptocurrency wallet on the platform, not their card account where Mr M sent the fiat money to.

In summary, I recognise that this will come as a considerable disappointment to Mr M and I'm sorry that he's lost a large sum of money to a cruel scam. But in the circumstances, I'm not persuaded that Revolut can fairly or reasonably be held liable to reimburse him for his losses.

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 Mr M to accept or reject my decision before 23 August 2024.

Gagandeep Singh
Ombudsman