

## The complaint

Mr M complains that Revolut Ltd has failed to refund £2,507.28 he says he lost to an investment scam.

## What happened

The background to this complaint is well known to both parties, and so I'll only refer to some key events here.

Mr M said he wanted to invest in crypto and contacted an investment company which was later taken over by another company (which I'll refer to here as 'C').

Mr M said 'C' assigned him a financial consultant and told him to open a Revolut account; as well as accounts with three legitimate crypto exchanges, to facilitate the investment. Mr M has also said he downloaded remote access software.

Between 10 and 15 May 2023 Mr M made the following payments using his Revolut debit card:

Date	Amount
10 May 2023	£500
10 May 2023	£399
11 May 2023	£500
12 May 2023	£732.28
15 May 2023	£376
	<b>£2,507.28</b>

On 11 May 2023 Mr M contacted Revolut as one of his payments wasn't going through. During this interaction, Revolut warned Mr M that he could be the victim of a scam and asked him several crypto investment scam specific questions. Revolut was satisfied from the information Mr M provided that the payments were legitimate.

On 16 May 2023 Mr M contacted Revolut to say he'd been the victim of an investment scam. Revolut secured his account and advised Mr M to raise a Visa chargeback claim but this was declined. Mr M complained to Revolut.

Revolut said Mr M had authorised the payments and it thought it had done enough to protect him and to try and recover the lost funds.

Unhappy with Revolut's response, Mr M referred his complaint to the Financial Ombudsman. He said he'd been the victim of a scam and hadn't authorised the payments. He said Revolut should refund the money he lost.

One of our Investigators considered the complaint but didn't uphold it. In short, he was satisfied Mr M had authorised the payments and that Revolut had done enough to try and protect him from the scam.

Mr M didn't agree and asked for an Ombudsman to issue a final decision. He said he was totally under the scammer's control and had no reason to question what they were telling him. Mr M maintained he didn't authorise the payments; rather the scammers accessed his account and took his money. Mr M said Revolut hadn't done enough to protect him.

### **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 decided not to uphold this complaint, for largely the same reasons as our Investigator. I know this is not the answer Mr M was hoping for and so this will come as a disappointment.

I've very carefully considered all the evidence provided. And I'd like to assure Mr M that if I don't mention a particular point, it's not because I haven't considered it, but I've focussed instead on what I believe to be important to the outcome of this complaint.

I'm sorry Mr M has been the victim of a scam and I don't underestimate the impact this had on him. But while I'm sympathetic to Mr M's situation, I must consider whether Revolut is responsible for the loss he has suffered. And while I realise this isn't the outcome Mr M is hoping for, I don't think it is. I therefore don't think Revolut has acted unfairly by not refunding the payments. I'll explain why.

#### *Did Mr M authorise the payments?*

Mr M says he didn't authorise the payments. He says this was done by the scammers who had access to his account.

In broad terms, the starting position in law is that an electronic money institution (EMI) is expected to process payments that its customer authorises it to make. Here, although instructed and helped by the scammer by way of remote access software, the evidence I've seen suggests Mr M was aware payments were being made from his Revolut account.

It's not in dispute that Mr M was the victim of a sophisticated crypto investment scam, and I don't doubt that he believed the payments were being made as part of a genuine investment. But the technical evidence provided by Revolut shows that Mr M consented to the payments being authorised by way of 3DS technology. Revolut has explained that this technology means Mr M would've received a notification from Revolut to verify his identity. I can also see from Revolut's chat history record with Mr M that he confirmed the payments had been made by him.

While Mr M may not have been aware of the *specifics* of the payments, this isn't required under the relevant Payment Service Regulations 2017 (PSRs) for payments to be considered authorised. Mr M would just need to have allowed the scammers to take payments from his account, which Mr M has accepted he did by way of remote access software.

On balance, while I understand Mr M was caught up in a scam, I'm persuaded he was aware these payments were leaving his account. In these circumstances, under the PSRs and the terms of his account, Revolut are expected to process Mr M's payments and he is presumed liable for the loss in the first instance.

### Could Revolut have prevented Mr M's loss?

When considering the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Revolut to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

Revolut did question Mr M about the payment he was trying to make and where there is interaction between an EMI and its customer in relation to a payment, we'd expect it to take this opportunity to find out more about the nature of that payment.

So, my focus is on whether Revolut acted reasonably in its dealings with Mr M - specifically whether it should've done more than it did before processing the payments – and if it had, would that have made a difference.

Mr M contacted Revolut via its chat function as one of the payments he was trying to make had been declined. I can see from the chat between Mr M and Revolut that it had some concerns. Revolut said to Mr M:

***'... I believe it is highly likely that the transactions you are attempting to make are part of a SCAM ...'***

Revolut then asked Mr M several questions. This included whether he'd downloaded remote access software; had been advised to open a Revolut account; and whether he was buying crypto. Mr M said no to all these questions.

Revolut then specifically asked Mr M why he'd opened his Revolut account. Mr M said:

***'It's an alternative account so I can use as a savings account ... I seen it advertised on TV and thought it was ideal'.***

Mr M later added:

***'My father passed away recently and I'm expecting some inheritance so I wanted a new savings account'.***

Revolut then asked Mr M about the involvement of any third party and whether they had control over his accounts and whether he was sending money to an external account. Mr M said:

***'I'm in control I don't send money'.***

Revolut also asked Mr M questions around the crypto exchanges he was paying. Mr M confirmed they were all his accounts. Mr M added:

***'I have started using these cryptos to try my luck myself and just to clarify ... no one is helping me for anything and I am doing the entire thing myself'.***

Revolut advised Mr M that scammers use fake websites and investment platforms. It then asked several more crypto investment specific questions about what access Mr M had to his trading platform; whether he'd been able to withdraw funds; how he decided what crypto exchanges to use; how he found out about the trading platform; and how long he'd been investing in crypto.

Mr M confirmed he had full access to his funds and was able to make withdrawals. He said he was doing '*constant research*' and that he had been planning to invest for almost a year, but this was the first time he'd done it.

Happy with Mr M's responses, Revolut processed the payments with no further intervention.

Firstly, I've thought carefully about whether Revolut asked the right questions during its interaction with Mr M to fully understand the nature of the transaction he was trying to make. And I do think it did enough.

Whilst it's not for us to dictate what questions an EMI should be asking of its customers around the legitimacy of payments – we would expect it to ask questions specific to the hallmarks of crypto investment scams. Revolut asked Mr M about remote access, whether there was a third party involved, how he found out about the investment and what access he had to his trading platform/crypto exchange accounts. Revolut also *specifically* told Mr M it thought he was likely the victim of scam and how trading platforms and websites can be fake. Taking all this into account, I'm satisfied Revolut took reasonable action to try and protect Mr M when it interacted with him about the declined payment.

I've thought next about the information Mr M provided to Revolut in response to its questions; and whether that should've reasonably alerted Revolut to the true situation. During his interaction with Revolut Mr M maintained that he knew what he was doing and was consistent in his responses that there was no third party involved and that he'd set up the Revolut account for savings. Therefore, I can't say Revolut acted unreasonably by not challenging what it was being told by Mr M in response to the questions it was asking. Nor do I think it had a reasonable basis to believe Mr M was being coached by a scammer.

I can also see from the interaction between Mr M and Revolut – which was over a period of several hours - that he was completely caught up in the scam; so much so that he was prepared to provide inaccurate information to ensure the payment was processed. Mr M had complete trust in the scammer – and even sent them Revolut's questions so he could be guided on what to say in response.

This prolonged interaction between Mr M and Revolut also gave Mr M time to reflect on the clear warnings Revolut was giving – and the accuracy and significance of the answers he was providing. I can see from his discussions with the scammer that Mr M had some concerns he was being scammed - but he continued to provide misleading information to Revolut at the direction of the scammer. This further suggests to me that any more questioning of Mr M by Revolut about any of the transactions was unlikely to have made a difference.

I've also given careful thought to whether there were any other circumstances specific to Mr M's payments that should've given Revolut cause for concern or a reason to probe more deeply into the answers he was providing. And I don't think there were.

Mr M's Revolut account was newly opened and so there wasn't any historical spending to have allowed Revolut to assess whether the scam payment transactions were unusual or out of character for Mr M. And individually, the payments weren't of a high value and didn't all increase in size; and they were spread out over multiple days – which is all contrary to the pattern usually seen in crypto investment scams. The payments were also made to legitimate crypto exchanges which Mr M confirmed to Revolut he had control over.

Furthermore, while there are known fraud risks associated with crypto, as scams like this have unfortunately become more prevalent, many of Revolut's customers use its services to legitimately invest in crypto - particularly as many high street banks have applied limits or restrictions. Revolut therefore must strike a balance between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate. And given the specific circumstances of this complaint, I think Revolut took a proportionate approach here.

Taking everything into account, I don't disagree that Mr M has been the victim of a sophisticated crypto investment scam. But I think Revolut did enough to try and protect him. With all that in mind, I don't think it's fair or reasonable to hold Revolut accountable for Mr M's loss.

### **My final decision**

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 25 March 2024**.

Anna Jackson  
**Ombudsman**