

The complaint

Mr J complains Revolut Ltd won't refund the £750 he lost as part of an investment scam.

What happened

In August 2023, Mr J was introduced to what he believed to be a legitimate investment opportunity with a company I'll refer to as "I". Mr J has explained he was promised a return of 2.5% on his investments. Mr J purchased crypto from a legitimate crypto exchange ('K') before transferring it to I's investment platform. Mr J said he saw his investment increase, but when he attempted to withdraw his profits, he was unable to do so. Mr J said his account was then closed and he was unable to make contact with I.

Between 15 August and 21 November 2023, Mr J made five payments to B totalling £750:

Date	Payment type	Amount
15 August 2023	Card payment to K	£175
6 September 2023	Card payment to K	£80
10 October 2023	Card payment to K	£45
20 November 2023	Card payment to K	£225
21 November 2023	Card payment to K	£225
	Total loss	£750

Mr J reported the matter to Revolut in December 2023 and asked for help recovering the funds. Revolut advised him to raise chargeback claims, although these were ultimately deemed invalid according to the card scheme rules as the payments were authorised by Mr J.

Unhappy with Revolut's response, Mr J referred his complaint to the Financial Ombudsman. He said that having reported the scam to Action Fraud he was advised to claim his losses back from Revolut. He was therefore disappointed when his chargeback claim was unsuccessful.

Our Investigator didn't uphold the complaint. While he accepted that Mr J had been the victim of a scam, he didn't think there was reason for Revolut to have intervened before processing the payments. He was also satisfied that Revolut had acted fairly in not proceeding with the chargeback claims, as they were unlikely to succeed.

Mr J disagreed and asked for an Ombudsman's final decision. He noted that he was aware of other people who had received their money back after they had fallen victim to similar authorised push payment ('APP') scams. He also suggested that there was legislation that entitled him to a recover his stolen funds.

As there has been no agreement, the case has been passed to me for a final decision.

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 reached the same conclusion as our Investigator and for largely the same reasons.

I'm sorry to learn Mr J has been the victim of a sophisticated scam, which caused him to lose money. I don't underestimate the impact this has had on him and his family. I can appreciate why he wants to do all he can to recover the money he has lost. But I can only direct Revolut to refund his losses if it can fairly and reasonably be held responsible for them.

Should Revolut be held liable for Mr J's loss?

In line with the Payment Services Regulations 2017 (PSRs), the starting position is that Mr J is liable for payments he authorises – and Revolut generally would be liable for unauthorised payments taken from his account.

There has been no dispute that Mr J made the payments himself, and Revolut has referred to evidence which further supports that he made the payments. So, although he didn't intend the money to go to the scammers and believed that his money was going to a legitimate investment, under the PSRs Mr J is presumed liable for his loss in the first instance.

Is Mr J entitled to a refund under the Contingent Reimbursement Model?

In his complaint to us, Mr J has referred to legislation that he believes entitles him to a refund because he was victim of an APP scam. I believe he is referring to the Contingent Reimbursement Model ('CRM').

For clarity, I should explain that the CRM - a voluntary scheme that provides increased protection for victims of APP scams - doesn't apply in these circumstances for several reasons. Revolut is not a signatory of the CRM, but even if it was, the CRM wouldn't apply in these circumstances as it does not cover card payments. Similarly, while it is undisputed Mr J ultimately lost money to scammers, his payments initially went towards the legitimate purchase of crypto, which would also not be covered.

While the CRM doesn't apply, there are some circumstances where I may have expected Revolut to have taken additional steps, or made additional checks, before processing payments in some circumstances.

Should Revolut have intervened before it processed the payments?

In broad terms, the starting position in 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 PSRs and the terms and conditions of the customer's account.

But, 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 in August 2023 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;

- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- 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 including in relation to card payments);
- 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 crypto accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

But, with that in mind, there is also a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

So, the starting point for me is to consider whether any of Mr J's payment instructions – taken either individually or collectively - were particularly unusual or suspicious to have required intervention from Revolut.

I understand that Mr J opened the account with Revolut on 14 August 2023 to pay into the investment. As such, Revolut did not know his typical spending patterns. But that doesn't mean it wasn't able to recognise suspicious activity – only that the information it had on which to make that assessment was limited.

I've thought about what Revolut did know about Mr J when he came to make the first payment. That information was limited. Other than the payment amount and destination, it knew his personal details and that the account had been set up the day before. When opening the account, Mr J had stated he intended to use the account for "*Scheduling payments, Purchase protection, Metal card, Rewards and Transfers*". I don't think Mr J's payments to K contradicted his stated account opening purpose.

The value of the initial payment (£175) was not at a level that I would have expected Revolut to have considered unusual or high risk. And while the payment went to a crypto exchange, again I don't think this ought to have given Revolut cause for concern. I'm mindful that customers of Revolut can purchase and trade crypto through its application. So, I don't think it would appear unusual for a customer to use their account to purchase crypto. I don't therefore think Revolut ought to have intervened in Mr J's initial payment.

Similarly, the other payments Mr J made were not so large to have appeared on the face of it unusual or suspicious. There were also gaps of several weeks between all but the last two payments. So, I don't think there was any pattern emerging that ought to have put Revolut on notice that Mr J may have been falling victim to a scam.

Overall, I can't see that there was sufficiently concerning information about any of Mr J's payments that Revolut ought to have intervened or provided a specific warning before processing the payment instructions.

Could Revolut have done anything else to recover Mr J's money?

I understand that Mr J is also disappointed that Revolut refused to pursue a chargeback claim on his behalf. But given the circumstances, I don't think Revolut acted unfairly.

Mr J's payments were made to K, a legitimate crypto exchange, rather than to the scammer directly. As such, I'm satisfied any attempt to dispute the transactions through the card

scheme would have been successfully defended by K, on the basis that it provided the service Mr J paid for – the exchange of fiat money into crypto. So, I don't think there was any prospect of Mr J recovering his money this way.

I have a great deal of sympathy for Mr J and the loss he's suffered. But it would only be fair for me to direct Revolut to refund his loss if I thought it was responsible for it – and I'm not persuaded that this was the case. So, while I know this will be very disappointing for Mr J, I don't find that Revolut are responsible for his loss. It follows that I will not be asking it to take any further action.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 25 July 2024.

Lisa De Noronha
Ombudsman