

The complaint

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

Mr P is being represented by a claims management company in this complaint.

What happened

The detailed background to this complaint is well known to both parties, so I won't repeat it again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns eight payments totalling just over £30,000 which Mr P made from his Revolut account between April and May 2023. Mr P says he made the payments in connection with an investment opportunity promoted by a company, "S", which he subsequently discovered was a clone of a legitimate company.

Mr P's Revolut account was opened under the instructions of S. He transferred majority of the funds into his Revolut account from his account with a high street bank – B – before sending them on to a global payments provider which also offers digital currency including cryptocurrency. Once his money was converted into cryptocurrency, Mr P sent it on to cryptocurrency wallets as instructed by S.

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 agree with the overall outcome reached by the investigator. I've explained why below.

Revolut hasn't disputed Mr P's claim that he sent payments to a clone company instead of the legitimate company. Looking at the correspondence between Mr P and the individual he was communicating with, I think it's more likely than not that Mr P's dealings were with the clone company. So, I've proceeded on that basis.

The starting position is that liability for an authorised payment rests with the payer, even when they are duped into making that payment. There's no dispute that Mr P made the payments 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 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 Mr P before executing his authorised instruction for the first disputed payment of £1,500.

The second payment, also for £1,500, was made the following day and it flagged on Revolut's fraud detection systems. It says it asked Mr P the purpose of the payment and displayed a warning based on the purpose selected from the available options. Revolut submits that Mr P continued with the transaction despite being given the opportunity to seek advice before going ahead.

Mr P selected 'safe account' when in fact he'd been investing funds and that was one of the payment purposes on the list. It isn't clear why Mr P selected the reason that he did. Regardless, Revolut ought to have been concerned when 'safe account' was selected, given it is never a legitimate reason for sending money to another account. In the circumstances, I don't consider displaying a scam warning on the screen and giving Mr P 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, was a proportionate response to the risk identified. Revolut ought to have contacted Mr P to discuss the payment further, even if it meant directing him to an in-app chat with an agent.

I can't know for certain what would have happened if Revolut had questioned Mr P further. In such situations, I reach my conclusions not based on mere possibilities but rather on what I find most probable to have happened in the circumstances. In other words, I make my decision based on the balance of probabilities – so what I consider most likely to have happened considering the evidence and wider circumstances of the case.

I can see that Mr P's correspondence with the scammer – which both parties to the dispute have sight of – shows that a few weeks after making the above payment in question, Mr P forwarded a message to the scammer which he likely received from his main bank B (from where most of the funds originated). The message warned Mr P about the prevalence of investment scams, including being encouraged to purchase cryptocurrency, and provided tips on spotting a scam. The warning resonated with Mr P, and he told the scammer he saw similarities between the scenarios described in the message and his circumstances. It seems a phone conversation ensued after which Mr P went on to make a payment for £5,500 towards the scam.

The investigator wasn't persuaded that further questioning by Revolut when a payment flagged as suspicious would have led to Mr P not going ahead with it, given his actions when he did receive a warning from a third-party institution that also echoed with him. But Mr P's representative disagrees that an earlier intervention would not have worked, given he hadn't invested a significant sum of money by that point and had already questioned S's legitimacy.

I understand the point Mr P's representative is making. But on balance, I'm not convinced that a more probing intervention at the time of the second payment would have positively impacted Mr P's decision-making. Although crucial, because it shows he was persuaded to send more money despite recognising that his own experience followed a known fraud pattern, my finding isn't based solely on his reaction to the scam warning he received several weeks later. Having carefully reviewed Mr P's chat messages with the scammer, I can also see that they were able to provide reassurances to him whenever he had doubts. These reassurances were given as early as around the time of the payment that triggered an alert on Revolut's systems.

Reading through the messages, I've also seen evidence of the scammer coaching Mr P into what to ask or tell Revolut and B. For instance, when Revolut temporarily restricted his account a few days after the payment in question, Mr P followed the scammer's instructions in asking how long he'd need to wait to access his money. And when Revolut was verifying the source of Mr P's funds, the answer he gave was exactly what the scammer had messaged him to say. Later that same day, the scammer instructed Mr P not to mention crypto to his bank (this could have been in relation to a payment Mr P might have been attempting to make from B). The messages are indicative of Mr P being coached on what to say. And they were exchanged much early on compared to the scam warning he received.

So, had there been a direct intervention and questions asked about the payment purpose selected when the second transaction triggered, it is possible that Mr P would have explained he'd made a mistake and selected the safe account option in error. But it doesn't follow that he would have been entirely honest about where he was sending his money. Or that any concerns he might have had because of Revolut's intervention would have more likely than not outweighed any reassurances provided by the scammer who he was in contact with at the time.

I should mention that at this point we don't know if bank B intervened when Mr P made scam-related payments from his account with it – either to his Revolut account or to a third party (as the chat messages suggest). But given what I've noted above, I don't think it's necessary to establish whether bank B intervened and provided a scam warning to Mr P at an earlier point. I'm persuaded from what I've already seen so far that causation, which is a critical determinative factor in every scam case, is not established here. In other words, I'm not convinced that a better intervention by Revolut would have necessarily limited Mr P's losses to just the first payment.

In conclusion, I know that Mr P will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a significant amount of money involved here. Despite my natural sympathy for the situation in which Mr P finds himself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for his 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 Mr P to accept or reject my decision before 5 June 2024.

Gagandeep Singh
Ombudsman