

The complaint

Mr G complains that Revolut Ltd won't refund money he lost when he fell victim to a cryptocurrency investment scam.

Mr G is being represented by solicitors in this complaint.

What happened

The detailed background to this complaint is well known to both parties and has been previously set out by the investigator in their assessment. So, I won't repeat it again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns six transactions totalling approximately £25,000 which Mr G made using his Revolut debit card over a period of two days in February 2023. They were made in connection with an investment opportunity which Mr G says turned out to be a scam.

To fund most of the disputed transactions, Mr G took out a loan of £20,000 from an online lender. It was paid into his account with a high street bank "H", which Mr G then transferred to Revolut. To deposit the funds into his investment account, Mr G sent the money to a cryptocurrency exchange for conversion into cryptocurrency. Once converted, the cryptocurrency was sent on to cryptocurrency wallets as instructed by the third-party that Mr G was in contact with.

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.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to be good industry practice at the time, I consider it fair and reasonable in February 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,
- 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 cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

I've considered that the disputed transactions were sent to a legitimate cryptocurrency exchange. I accept that buying cryptocurrency is a legitimate exercise. But by 2023, there had been an increased prevalence of investment scams involving cryptocurrency. Both the financial services regulator and Action Fraud had warned of cryptocurrency scams. This type of insight is something that regulated businesses, including Revolut, ought to take notice of.

I'm satisfied that Revolut ought to have recognised that the first disputed card transaction for £4,393.85 carried a heightened risk of financial harm from fraud because it was identifiably cryptocurrency related. Given there was no previous cryptocurrency related activity on Mr G's account, and there had been limited account activity in general, I consider Revolut should have taken additional steps when it received his authorised instruction.

I think that a proportionate response to that risk would have been for Revolut to have provided a written warning specific to cryptocurrency investment scams, tackling some of the key features of the scam. But, had it done so, I'm not persuaded that would have prevented Mr G's loss. I'll explain why.

The initial transfer from Mr G's account with H into his Revolut account was flagged for fraud checks. Mr G was asked to phone the bank to discuss the transaction. I've listened to a recording of the relevant call. Mr G didn't answer H's questions truthfully. For instance, he was asked about the reason for making the transfer and Mr G said he just wanted to move some money into his Revolut account. He added that the funds would just stay there. Mr G also told H that no one else had been involved in the transaction. None of these facts were true.

Mr G's representatives state that the provision of a tailored warning would have made him realise he'd fallen victim to a scam. I can't say for certain how Mr G would have responded to Revolut's warning. In such circumstances, I need to make my decision on the balance of probabilities. In other words, what I consider to be more likely than not Mr G's response based on the information that is available.

What I have is contemporaneous evidence of Mr G misleading another business when questioned over the phone. I'm not convinced that the provision of a tailored written warning during the payment flow would have positively impacted his decision-making. I acknowledge that the questions and warnings provided by H weren't specific to cryptocurrency scams, but Mr G's answers suggest he was willing to mislead his bank.

Although I haven't seen the communication between Mr G and the third party, based on his answers it seems likely that he was being coached on how to answer questions from his bank. Given his actions, I'm not persuaded that a more specific warning would have made any difference to Mr G's decision-making. The same goes for any proportionate intervention by Revolut during the subsequent transactions.

What this means is that in the circumstances of this case, I don't consider Revolut acted unfairly in executing the payment instructions it received from Mr G. It follows that I don't find it liable for his financial loss.

In summary, I know that Mr G will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which he 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 G to accept or reject my decision before 22 July 2024.

Gagandeep Singh
Ombudsman