

The complaint

Mr L complains that Revolut Ltd won't refund several payments he says he made and lost to a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Mr L complains that from July 2023 he made 11 payments from his Revolut account to what he thought was a legitimate investment company. Some payments were made as a transfers and then the remaining by debit card.

Payment 1	21 July 2023	£499.36	
Credit	26 July 2023	£19.20cr	
Payment 2	31 July 2023	£2,477.92	
Payment 3	31 July 2023	£2,477.20	
Payment 4	14 August 2023	£2,474.35	
Payment 5	14 August 2023	£989.22	
Payment 6	15 August 2023	£2,472.84	
Payment 7	16 August 2023	£2,275.24	
Payment 8	17 August 2023		€ 2,661.75 – Declined
Payment 9	17 August 2023	£2,300	
Payment 10	17 August 2023		€ 2,986
Payment 11	21 August 2023		€ 1,029
Payment 12	21 August 2023		€ 2,844
	Fees	£126.65	
	Total	£16,092.78	€ 6,859

Mr L says that in July 2023 he was looking for an investment opportunity. He came across an advert on a social media platform and after inputting his details, he was then contacted by the scammer who explained how to invest.

Mr L believed he was investing in crypto currency and commodities and had access to a legitimate looking platform as well as webinars.

Mr L started to make payments and got £19.20 returned which was sent to an account with another bank.

It was only when Mr L contacted one of the banks he thought he had sent money to, that he realised he had been scammed. So, Mr L raised this with Revolut.

Revolut looked into the complaint but didn't uphold it. It didn't think it had done anything

wrong by allowing the payments to go through. So, Mr L brought his complaint to our service.

Our investigator looked into the complaint but didn't uphold it. Our investigator did find some of the payments should've triggered Revolut's payment detection system earlier but wasn't persuaded it would've stop Mr L from losing this money. Our investigator went on to say that Mr L was given adequate warnings on later payments and still proceeded to make the payments. So, she decided any earlier warnings wouldn't have changed the course of events leading to Mr L losing his money.

As Mr L didn't agree with the investigator's view, the complaint's 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 come to the same outcome as the investigator for largely the same reasons. I'll explain why.

I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

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 have been good industry practice at the time, I consider it fair and reasonable in July/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 cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

Having considered the amount of money sent as a result of the scam, I agree with the investigator when she said that the payment made on 31 July 2023 for £2,474.20 was out of character for the account and Mr L's spending. I appreciate the account had only been recently opened, and although there was no spending history to refer to, I'd still expect Revolut to be monitoring the account to prevent the risk of financial harm. The second and third payment were a clear escalation in value and had the potential to cause significant financial harm to Mr L. The payment of £2,474.20 was the second payment in the same day and it took the total value to an amount where I'd expect Revolut to have intervened. I consider Revolut ought reasonably to have identified that a pattern had developed – of increasingly large payments to a cryptocurrency provider – that could indicate Mr L was at risk of financial harm from fraud.

So, when Mr L attempted to make payment three, taking into account what I've said about the increased risk that cryptocurrency transactions presented, I think Revolut ought fairly and reasonably to have recognised the risk had increased and there was a heightened possibility that the transaction was linked to a cryptocurrency scam. In line with the good industry practice that I've set out above, I think Revolut should have given Mr L a tailored automated warning.

While I think Revolut ought to have recognised that Mr L was at heightened risk of financial harm from fraud when making these payments, I don't think any further proportionate intervention by Revolut would have prevented Mr L's loss. I say this as Mr L hadn't been completing each payment with the correct payment purpose. Mr L was aware he was sending money for an investment but had been choosing family and friends and paying for goods and services. So, I'm satisfied it's unlikely Mr L would've answered the crypto specific warning accurately and would've most likely continued to make payments, as he was either being coached or confident enough that he wasn't being scammed and didn't need to give accurate information.

Mr L's representative has referred to multiple other complaints resolved by our service, that it says was upheld. Although we consider each complaint on its own merits, as I have done here, it's worth noting that in the complaints Mr L's representative has raised, the ombudsman found a proportionate warning was human intervention, with many of the examples being face to face payments made in a branch. As I've explained above, in the circumstances of this complaint, and based on the value and how the payments were made, I'm satisfied a proportionate invention was an automated warning.

It's worth noting that although Mr L's representative has said it's common for consumers to choose non perfect payment reasons, Mr L was choosing payment reasons that would've appeared to the bank as less risky than if he had answered these accurately and said it was for an investment. So, this is another reason why I'm convinced that an automated warning would've been proportionate in the circumstances.

Mr L's representative has said it would have looked out of place to be making payments to friends and family by cryptocurrency. I think it's important to highlight that there are many crypto payments made by customers each day and it's not reasonable to expect the bank to stop and speak to each consumer. There's a balance to be struck between the extent it intervenes in payments to protect customers, and it's not un-common for individuals to transfer crypto to people they know.

After payment three, I'm not convinced the payments reached a value or a frequency that required any further warning or intervention. The payments didn't continue to increase above what the bank has seen with payment two and three, like they do with many of the scams we see. And they didn't reach a value or frequency where I find the bank needed to consider a different type of intervention.

Recovery

After the payments were made, I couldn't reasonably expect Revolut to have done anything further until Mr L told Revolut that he had been scammed.

After the debit card payments were made, the only potential avenue for recovery of the payments would have been through the chargeback scheme. The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. Revolut is bound by the card scheme provider's chargeback rules. Whilst there is no 'right' to a chargeback, I generally consider it to be good practice that a chargeback be raised if there is a reasonable chance of it succeeding. But a chargeback can only be made within the scheme rules, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply. Unfortunately, the chargeback rules don't cover scams.

In the circumstances of this complaint, I'm satisfied that a claim would've unlikely been successful and I can see that Revolut did try to raise one. Mr L paid a legitimate crypto exchange for the first eight payments, and he would have received a service from the crypto exchange. Mr L's disagreement is with the scammer, not the crypto exchange. And so, it would not have been possible for Revolut to process a chargeback claim against the scammer as Mr L did not pay them directly.

So, I don't think Mr L had any reasonable prospect of success if Revolut were to have processed chargeback claims against the crypto exchange. So, I can't say that Revolut acted unfairly when it considered Mr L's chargeback claim.

I've considered the payments that were sent to personal accounts and although Revolut have tried to recover these from the third parties involved, the receiving bank has responded to say the funds were no longer available. Mr L did tell Revolut he thought he'd been scammed two days after the final payment, but Revolut said Mr L didn't supply all the information it required to raise a claim. Having said that, even if I was satisfied Revolut could've contacted the receiving banks at this point, I still don't think it was likely the money would've been there to recover. I say this as from what we know about scammers, they tend to move the money on quickly and not uncommonly within the first 24 hours to other accounts.

Mr L feels that Revolut should refund the money he lost due to the scam. I understand that this will have been frustrating for him. But I've thought carefully about everything that has happened, and with all the circumstances of this complaint in mind I don't think Revolut needs to pay Mr L any compensation. I realise this means Mr L is out of pocket and I'm really sorry he's lost this money. However, for the reasons I've explained, I don't think I can reasonably uphold this complaint.

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 L to accept or

reject my decision before 25 November 2024.

Tom Wagstaff
Ombudsman