

The complaint

Mr W complains that Atom Bank PLC (Atom) is refusing to refund him the amount he lost as the result of a scam.

Mr W is being represented by a third party. To keep things simple, I will refer to Mr W throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr W found an advertisement online for cryptocurrency investment. The advertisement was endorsed by a well-known celebrity which made the opportunity appear legitimate. Mr W clicked on the link provided and completed a form with his personal information.

Shortly after providing his details Mr W received a call from Current Coins (X). X explained the investment opportunity and Mr W started to make payments in relation to the investment. Mr W was required to download the remote access software AnyDesk so X could assist him with the processes.

Mr W could see he had made a substantial profit from the investment and attempted to make a withdrawal. But X explained Mr W would first need to make a further payment of £15,000 to an escrow account to show liquidity. At this stage Mr W realised he had fallen victim to a scam.

Mr W made the following payments in relation to the scam from his account with Atom:

Date	Payee	Payment Method	Amount
8 March 2023	Mr W Revolut	Transfer	£20,000
10 March 2023	Mr W Revolut	Transfer	£19,900
13 March 2023	Mr W Revolut	Transfer	£10,000
13 March 2023	Mr W Revolut	Transfer	£27,500

In my provisional decision sent on 5 July 2024 I explained why I didn't think Atom was responsible for Mr W's loss, and why this complaint shouldn't be upheld. I said:

"It has not been disputed that Mr W has fallen victim to a cruel scam. The evidence provided by both Mr W and Atom sets out what happened. What is in dispute is whether Atom should refund the money Mr W lost due to the scam.

Recovering the payments Mr W made

Mr W made payments into the scam from his Atom account via the method of transfer. Atom has confirmed it contacted the receiving bank when Mr W made it aware of the scam, but the funds had already been moved on.

With the above in mind, I don't think Atom had any reasonable options available to it to recover the payments.

Should Atom have reasonably prevented the payments Mr W made?

It has been accepted that Mr W authorised the payments that were made from his account with Atom, albeit on X's instruction. So, the starting point here is that Mr W is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Atom should have been aware of the scam and intervened when Mr W made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The account Mr W held with Atom was a savings account not designed for everyday banking. When Mr W setup the account he was required to nominate an account to which he would make any withdrawals to. Mr W nominated his account at Revolut.

This type of account has the added security of a previously nominated account that has been verified by Mr W for withdrawals. Also, with savings accounts it is more common to see larger deposits and withdrawals taking place in general. So, it doesn't necessarily mean I would expect to see Atom intervening when Mr W made the large payments to his nominated account with Revolut.

However even if I did think Atom should have intervened, I don't think it would have made a difference. I say this because Mr W also made payments in relation to the scam from accounts he held elsewhere.

When Mr W opened his Revolut account he gave the account opening reasons as spending abroad, overseas transfers, cashback, and transfers. yet the account was only ever used to make payments in relation to cryptocurrency.

When Mr W gave a reason for his payments from the Revolut account he selected "product or service".

When Mr W was asked by Revolut if the product or service was advertised on a social media platform, or had a small number of reviews he said no.

When he made another payment from another of his accounts in relation to the scam an intervention also took place in the form of a telephone conversation. Mr W confirmed that:

- *he had recently opened the account with Revolut for travelling as it offered better commission rates and he had not opened the account for any other reason*
- *he had recently visited relatives abroad and would be travelling again*
- *he had found the account himself online after carrying out his own research*
- *he had not been asked to setup the Revolut account or make payments to it*
- *although he had given the reason for the payment as "investment" he was not making the payment for investment purposes*
- *he had not been asked to lie when making the payment*

Mr W was asked several times about the reason for his payment, and he confirmed every

time that the payment was not for an investment.

Even though Mr W confirmed several times that the payment was not for investment he was still warned that there had been an increase in investment and crypto scams, and he was asked if the payment was in relation to any of these. Mr W confirmed that it wasn't.

I think it's clear from the information above that Mr W was willing to go along with the advice given by X to provide misleading information to have the payments processed. I don't think Mr W would have been more honest had Atom intervened and questioned Mr W about the payments he was making. This would have made it difficult for Atom to uncover the scam.

As Mr W was willing to be dishonest to make the payments, I don't think Atom missed an opportunity to prevent the scam and it is not responsible for Mr W's loss."

I gave Mr W and Atom time to respond to my provisional 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.

Mr W did send a response to my provisional decision. Mr W explained his understanding of our approach and quoted several other previous decisions that have been made by our service.

While I appreciate what Mr W has said, each case is considered on its own individual merits, so the outcome of these cases doesn't affect my decision.

Mr W has also said that the questions he was asked by other banks and the answers that were given should not be considered when looking at this complaint. I disagree as the interactions Mr W had with each business during the scam helps us to understand the full circumstances of the scam and are important when determining the outcome of the complaint.

Overall, Mr W has said that a detailed intervention with open ended questions would have uncovered the scam and prevented Mr W's loss. He says the answers he gave were not plausible and this should have been noticed during an intervention.

While I take onboard what Mr W has said it doesn't change my decision on this complaint. As I explained in my provisional decision, Mr W was asked several questions about the payments he was making and gave dishonest answers. He was specifically asked on multiple occasions if the payments were in relation to an investment and he said they weren't.

It is clear from the available evidence that Mr W was determined to make the payments and willing to give dishonest answers for them to be processed. This would have made it very difficult for Atom to uncover the scam so it would not be fair to hold Atom responsible for Mr W's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 September 2024.

Terry Woodham
Ombudsman