

The complaint

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

Mr K is being represented by solicitors in this complaint.

What happened

The detailed background to this complaint is well known to the parties and has been previously set out by the investigator. The facts about what happened aren't in dispute. So, I'll focus on giving my reasons for my decision.

The complaint concerns several transactions totalling just under £80,000 which Mr K made using his Revolut debit card in January and February 2023. These were made in connection with an investment opportunity provided by company, "C", whose advertisement Mr K came across on social media. When C cut off contact with Mr K after he requested to make a withdrawal, he realised he'd fallen victim to a scam.

Mr K's Revolut account was opened as part of the scam. He transferred funds into his Revolut account from his account with a high street bank "L". To deposit funds on to C's investment platform, Mr K sent money to a cryptocurrency exchange for conversion into cryptocurrency. Once converted, the cryptocurrency was sent on to cryptocurrency wallets as instructed by the scammer (albeit at the time Mr K thought he was loading it on to his account with the investment platform as the balance went up accordingly).

Our investigator didn't uphold the complaint. Although they found that Revolut ought to have intervened when Mr K made the second payment, they weren't persuaded that it would have prevented his loss. The investigator explained that Mr K had misled his bank L when it questioned him about the payment to his Revolut account. Mr K had also obtained a loan from L (and other lenders) and lied about the loan purpose. While they acknowledged that the cover story L was given was unlikely to have worked with Revolut, the investigator wasn't persuaded that Mr K would have been honest about the nature of his payments.

Mr K's representative has asked for the matter to be decided by an ombudsman. It says it is confident that had Revolut followed up any enquiries with a series of probing questions the scam would have uncovered. So, Revolut should take at least partial liability in this matter.

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. It isn't in dispute

that Mr K authorised the transactions in question. He's therefore presumed liable for the loss in the first instance.

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 January 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); and
- 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.

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 given the account was opened just the day before the first dispute transaction, 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 taken additional steps when Mr K authorised the first disputed transaction of £15 on 26 January. I accept that Mr K was sending money to a cryptocurrency exchange. But that in and of itself doesn't mean that the transaction ought to have flagged as suspicious. Buying cryptocurrency is a legitimate exercise.

But by the time Mr K authorised the next transaction – £19,850 on 28 January – Revolut ought to have recognised that it carried a heightened risk of financial harm from fraud. This is because a pattern of increased activity on cryptocurrency spending had emerged. And there was a significant jump in the amounts involved. I consider Revolut should have taken additional steps when it received Mr K's instruction.

I think that a proportionate response to that risk would have been for Revolut to have had a direct intervention with Mr K, for instance by directing him to its in-app chat, to make further enquiries. But, had it done so, I'm not persuaded that the warning would have prevented Mr K's loss. I'll explain why.

On 7 February, a transfer Mr K made from L to his Revolut account (to make the third transaction to the cryptocurrency exchange from his Revolut account) triggered L's fraud detection systems. Mr K was required to call the bank to discuss the payment further. I've

listened to the recording of the call and Mr K didn't answer L's questions truthfully. I've noted the key observations below.

Mr K was asked how long he'd had his Revolut account, and he said 'a few months' – the account was set up less than four weeks prior. The agent told Mr K they wanted to make sure no one had contacted him and asked him to make payments, given him account details, or told him to tell the bank a different story if it asked him what the payment was for. The agent noted Mr K had recently taken out a loan, and he confirmed it was for some housework – which was also the reason he gave for why he was sending money to his Revolut account.

The agent told Mr K that often fraudsters tell customers about good money-making opportunities and send money to them. They also tell customers to tell the bank different stories if a payment is questioned. Mr K acknowledged the agent's statements and said the difference here was that the Revolut account was in his name. The agent responded and said that this is how the fraudsters make themselves trustworthy, by setting up accounts in the customer's name.

The agent then asked Mr K if anyone had contacted him or asked him to download anything on his phone, referring to a remote access software. Mr K answered no. But in his complaint submission, and at the time of reporting the scam to Revolut, Mr K confirmed he had installed a remote access software under the instructions of the scammer.

I accept that L didn't have the same information that Revolut did about the merchant Mr K was making payments to. But the warning L gave did include features that did apply to Mr K's situation and therefore ought to have resonated with him. He had been contacted by someone and instructed to open the Revolut account. He was also asked to download a remote access software. And he was being asked to make deposits to earn money.

But Mr K doesn't appear to have taken note of L's concerns, given that he made the payment to the cryptocurrency exchange as soon as the funds arrived into his Revolut account. As he doesn't appear to have done that on 7 February, I'm not persuaded that Mr K would have acted any differently on 28 January even if Revolut had identified that there was a heightened risk of financial harm from fraud like I think it should have.

I've considered Mr K's representative's argument that the cover story Mr K was given would not have worked with L, given the transactions were cryptocurrency related.

I think the important detail to mention here is that it's not the specifics of the dishonesty itself, but the willingness. I accept that the Mr K's answers to L's questions are unlikely to have worked with Revolut. But it's equally possible that Mr K could have provided a different cover story. I can't say for certain how Mr K would have responded to Revolut's enquiries. 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 K's response based on the information that is available.

What I have is contemporaneous evidence of Mr K misleading another business when questioned over the phone – on more than one occasion if I include Mr K's reason for applying for a loan. While I acknowledge that the questions and warnings provided by L weren't specific to cryptocurrency scams, as I've mentioned, these included features that did apply to Mr K's situation. His answers suggest he was willing to mislead his bank – either because he'd been coached or out of his own volition.

I can only ask Revolut to reimburse Mr K if I find that any wrongdoing on its part caused him loss. That concept is one his representative should be very familiar with. Yet it has not

sought to substantiate its arguments as to why better questioning would have resulted in Mr K acting any differently given he willingly misled his main bank.

What this means is that had Revolut taken additional steps and questioned Mr K at the time of the second transaction, or during the subsequent transactions, I'm not convinced that he would have responded honestly like his representatives have suggested.

I've also thought about whether Revolut could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. Here, the recovery avenue would have been limited to chargeback. But Mr K's payments went to a cryptocurrency exchange. He wouldn't be able to make a successful chargeback claim in the circumstances because the merchant he paid did provide the service requested (i.e., conversion of fiat money into cryptocurrency). For completeness, Revolut couldn't attempt a chargeback against any another party.

In summary, I know that Mr K 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 Mr K 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 K to accept or reject my decision before 18 November 2024.

Gagandeep Singh
Ombudsman