

## **The complaint**

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

Mr J 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 several card transactions totalling around £87,000 which Mr J made using his Revolut account over a period of six weeks in the autumn of 2022. There were two transfers as well, but the transactions were reversed and credited back into Mr J's account. As such, they're not included in the loss being claimed.

The disputed transactions were made in connection with an investment opportunity with a firm "P" which Mr J came across on a social media platform. He left his contact details and was contacted by a representative from P who persuaded him to invest. Mr J states he was investing in natural gas and oil. But then cryptocurrency was discussed, and he was persuaded to make deposits in cryptocurrency. He was told to set up an account with Revolut as well as a cryptocurrency exchange.

Under P's instructions, Mr J transferred funds into his Revolut account from his account with a high street bank "H". This money was then sent to a cryptocurrency exchange for conversion into cryptocurrency. Once converted, the cryptocurrency was sent on to cryptocurrency wallets. Mr J thought the cryptocurrency was being deposited into his account with P. He subsequently discovered he'd been scammed when he attempted to make a withdrawal but was asked to pay several fees before his profits could be released.

Revolut refused to refund Mr J's loss and said it hadn't acted unfairly in executing his authorised instructions. A complaint was made and subsequently referred to our service. Our investigator thought that Revolut should have taken additional steps and questioned Mr J when he authorised a transaction for £15,004 on 8 September. But they weren't persuaded that an intervention would have stopped him from going ahead with the transaction. The investigator explained that days prior to the transaction in question, H had spoken to Mr J about a transfer he'd made from his account with it to Revolut and he hadn't been honest in his answers. Therefore, the investigator wasn't convinced that an intervention by Revolut would have worked either.

Mr J didn't agree with the investigator's conclusions and asked for the complaint to be reviewed by an ombudsman.

I issued my provisional decision last month and said that I intended not upholding this complaint. I set out the following reasoning:

*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 that in September 2022 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.*

*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 questioned Mr J when he authorised the first disputed transaction of £4,995 on 1 September. I acknowledge that Mr J 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 J authorised the next transaction – £15,004 on 8 September – 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 amount involved. Investment scams involving cryptocurrency were on the rise. So, I consider Revolut should have taken additional steps when it received Mr J's instruction to satisfy itself that everything was above board.*

*In this instance, I think that a proportionate response to that risk would have been for Revolut to have gone even beyond the provision of an automated warning and*

*carried out a direct intervention. It could have, for instance, directed Mr J into the in-app chat for an agent to make further enquiries and, if appropriate, provide a warning tailored to his circumstances. But, had Revolut done so, I'm not persuaded it would have prevented Mr J's loss. I'll explain why.*

*On 1 September – days before the transaction I consider Revolut should have questioned – the initial transfer Mr J made from his account with H into Revolut was flagged for fraud checks. Mr J was required to phone the bank to discuss the transaction. I've listened to a recording of the call and, as the investigator highlighted, Mr J didn't answer H's questions truthfully. He mentioned he was making the transfer in relation to an investment. But when specifically asked if it was going to be cryptocurrency related, Mr J answered no and added that cryptocurrency was too volatile at that moment. The agent asked him if anyone had contacted him to make the transaction and the investment, or told him to open an account with Revolut, Mr J said no to both of those questions. We know these answers weren't true.*

*Mr J's representative has said that Revolut would have known that transactions made from its account were cryptocurrency related. So, the answers Mr J gave H would not have worked had Revolut questioned him. The representative has also questioned why, if the investigator thought that correspondence with the scammer showed Mr J had become suspicious that he was being scammed and therefore required a lot of reassurance, would further questioning by Revolut not break the spell given he wasn't yet fully trusting.*

*I understand the point Mr J's representatives are trying to make about the answers he gave when H questioned him. I think the important detail to mention here is that it's not the specifics of the dishonesty itself, but the willingness. Especially if, as the representative claims, Mr J hadn't been coached by the scammer. I accept that Mr J's answers to H's questions are unlikely to have worked with Revolut. But it's equally possible that Mr J could have provided a different cover story. No explanation has been provided for why he answered the way he did.*

*I can't say for certain how Mr J 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 J's response based on the information that is available. What I have is contemporaneous evidence of him misleading another business – with whom he had a longer relationship with – when questioned over the phone. Mr J's answers suggest he was willing to mislead his bank – either because he'd been coached or out of his own volition. I appreciate that his representative believes a further intervention by Revolut would have had a different impact. But I'm not convinced.*

*I've also carefully reviewed the chat correspondence between Mr J and the scammer, which was included in Revolut's submission as Mr J shared it when he reported the scam. They are screenshots of chat messages on an instant messaging platform. Unfortunately, they aren't dated and don't appear to be in order. And there are duplicate screenshots. So, it's not entirely clear whether what Revolut has received from Mr J is the full chat correspondence.*

*Nevertheless, I've taken a closer look at the available evidence, and I don't agree with the investigator's assessment that Mr J appeared to have doubts and needed a lot of reassurance from the scammer. I can only see one instance where Mr J mentions the words scam and ransom, but this appears to be much later when despite paying fees to withdraw his profits he is asked to pay in more funds. Even then, in my view, the scammer provides a straightforward response, including "the*

*AML guys are part of the directive from bank of england [sic]", "trust me i did my research", and "Anyway allow me to concentrate here :)". To which Mr J replies, "No worries, crack on!"*

*Overall, from the chat messages I've read, I'm not persuaded that Mr J had doubts about what he was doing at the time I think Revolut ought to have made enquiries. His concerns appear when he is asked for more funds to release his profits. This seems to be in October, towards the last stage of the scam. It's important to note that by that point, the earlier transactions to the merchant would have formed part of the account spending. As such, the later transactions wouldn't have been picked up as that unusual to Revolut.*

*What this means is that had Revolut taken additional steps and questioned Mr J when he authorised the second transaction, or arguably during some of the later transactions before a pattern of spending to that merchant emerged, I'm not convinced that he would have responded honestly like his representative has suggested.*

*I've also thought about whether Revolut could have done more to recover the funds once it became aware of the situation. These were debit card payments, so the recovery avenue would have been limited to chargeback. But Mr J'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 other party (i.e., the scammer).*

*In summary, I know that Mr J 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, and that this incident has impacted his wellbeing. 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.*

I invited further comments from both parties.

Mr J's representative replied and said Mr J accepted my provisional decision.

We haven't heard back from Revolut and the deadline to respond has now passed. I've therefore assumed it has nothing further to add.

### **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.

As neither party has provided any further comments for me to consider, I don't see any reason to change the outcome reached in my provisional decision.

### **My final decision**

For the reasons given above, and in my provisional 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 J to accept or reject my decision before 13 September 2024.

Gagandeep Singh  
**Ombudsman**