

The complaint

Mrs S complains that Revolut Ltd has declined to refund payments she made as part of a scam.

What happened

While Mrs S has a representative in bringing this complaint – for simplicity I’ll refer to Mrs S in relation to comments made by her and on her behalf.

The details of this complaint are well known to both parties, and aren’t in dispute, so I won’t repeat them in detail. Briefly, Mrs S fell victim to a job scam – as part of this she was asked to deposit funds to access tasks that she would need to complete.

In September 2023, Mrs S made 8 payments from her Revolut account totalling around £2,500. She became concerned when she was asked to increase her deposits and was unable to withdraw funds.

Mrs S says Revolut ought to have intervened when she set up the new payee and that it was identifiable for cryptocurrency. She says there were a lot of payments made over a short period of time and the amounts were unusual for her account. Mrs S says Revolut didn’t provide her with any warnings to help prevent her making payments as part of a scam. She also highlighted a cryptocurrency platform that she’d been told to use by the scammer and said there were previously Financial Conduct Authority (FCA) warnings about it.

Revolut declined to provide a refund on the basis that Mrs S had authorised the payments and it thought its controls were proportionate. Further it said it did not have a basis under the chargeback rules to recover her funds in the circumstances.

When Mrs S referred her complaint to our service, the investigator didn’t uphold it. In summary they didn’t think the payments would have appeared unusual or suspicious enough to have expected Revolut to have intervened at the time. They added that the recipient had a different name from the cryptocurrency platform Mrs S highlighted previous warnings about. They said that Revolut did not have chargeback rights in the circumstances.

Mrs S didn’t agree, in summary she said that by her sixth payment Revolut ought to have realised something was untoward and that the payment amount was significantly higher. She said the number of payments over a short period of time ought to have prompted a warning. She also provided a link which showed a connection between the merchant and the cryptocurrency platform there were previously FCA warnings about.

I issued my provisional decision on 24 July 2024 – here I shared that I didn’t think Revolut needed to do more in the circumstances. I explained why I didn’t think the activity on Mrs S’ account necessitated an intervention at the time and the FCA warning raised by Mrs S wasn’t relevant to the scam she fell victim to.

Neither party provided any additional information by the deadline provided.

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'm not upholding this complaint, I'll explain why.

It isn't in dispute that Mrs S authorised the payments she's disputing, rather she's requesting a refund because she made the payments in relation to a scam and thinks Revolut should have taken steps to prevent her loss.

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 September 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.

Taking the above into account, I don't think the activity on Mrs S' account was significantly out of character or otherwise indicated she was at risk of fraud to the extent that Revolut ought to have intervened in the circumstances.

This is because:

- It wasn't unusual for Mrs S to make multiple payments in one day.
- While Mrs S has lost around £2,500, this amount wasn't paid in one go – it was spread out across several lower value payments over days. The payment amounts varied from £10 to £1,400.

- While the sixth payment was for a higher amount than previous payments made as part of the scam, EMI's needs to strike a balance between its obligations to make payments and the need to counter various risks. A payment for £1,400 is not such a large amount that it would be fair to expect Revolut to have treated it as high-risk for that reason.
- With the above in mind, I don't think payments ought to have appeared concerning to Revolut even if they were identifiably cryptocurrency related.

Mrs S has raised that the payments were to a firm which was affiliated with a cryptocurrency platform that was the subject of an International Organisation of Securities Commissions (IOSCO) and FCA warning. Based on how it was presented on Mrs S' statements, Revolut could have seen that the payments related to that cryptocurrency platform. The IOSCO warning signposts to different jurisdictions, of most relevance is the FCA warning as the payments were made in the UK. This warning says that the cryptocurrency platform is unauthorised to provide financial services or products in the UK – it doesn't specify any specific scam risk.

Having considered the content of the wording, I'm not persuaded that it would be fair to expect Revolut to have treated every payment to that cryptocurrency platform as suspicious or high risk. This is a well-known genuine cryptocurrency platform and most crypto-related activities are unregulated in the UK, so I don't think Revolut needed to provide a warning to Mrs S. I note there's no suggestion that the cryptocurrency platform was involved in the scam.

However, even if Revolut ought to have provided a relevant warning in relation to this cryptocurrency platform, I'm not persuaded that if it had done so this would have prevented Mrs S from making the payment. This is because Mrs S was trying to purchase cryptocurrency rather than take out a regulated product. It's not clear why Mrs S thinks this would have affected her decision to make the payment, and further information has not been provided in response to my provisional decision for me to consider on this point.

Lastly, I've thought about whether there's anything more Revolut ought to have done to recover Mrs S' losses and I don't think there is. A chargeback claim would've had little prospect of success given there's no suggestion the cryptocurrency platform didn't provide the service/ goods agreed – i.e. purchasing / crediting the relevant cryptocurrency wallet.

I appreciate this will likely come as a disappointment to Mrs S, and I'm sorry to hear she has been the victim of a scam. However, I'm not persuaded Revolut can fairly or reasonably be held liable for her loss in the circumstances

My final decision

For the reasons explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 20 September 2024.

Stephanie Mitchell
Ombudsman