

## The complaint

Mr B complains about the actions of Revolut Ltd when he lost money to a scam.

Mr B is being represented by a claims management company but for ease of reading I'll only refer to Mr B in the decision.

## What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In August 2023 Mr B was contacted via message by an unknown third party. After exchanging messages, the third party explained that she invests in cryptocurrency and offered to help Mr B do the same. The third party told Mr B about a merchant – I'll refer to here as 'D'. He did some research into D online and saw some online reviews which he questioned D on. And after speaking to D, he decided to start investing.

In total Mr B sent money to D via his account with Revolut and another account in his name with a bank I'll refer here to as 'G'. The transactions applicable to the complaint against Revolut are below;

| Payment | Date             | Time    | Method                    | Merchant/<br>Beneficiary | Amount         |
|---------|------------------|---------|---------------------------|--------------------------|----------------|
|         | 2 September 2023 | 8:37pm  | Credit in                 | Mr B                     | £500           |
|         | 2 September 2023 | 8:38pm  | Credit in                 | Mr B                     | £1,500         |
| 1       | 2 September 2023 | 9:02pm  | Exchanged GBP to BTC      |                          | £2,000         |
|         | 3 September 2023 | 8:31pm  | Exchanged BTC to ETH      |                          | 0.09431908 BTC |
|         | 3 September 2023 | 8:43pm  | Cryptocurrency withdrawal |                          | 1.42166345 ETH |
|         | 4 September 2023 | 10:09pm | Credit in                 | Mr B                     | £2,000         |
| 2       | 4 September 2023 | 10:13pm | Exchanged GBP to ETH      |                          | £2,000         |
|         | 4 September 2023 | 10:18pm | Cryptocurrency withdrawal |                          | 1.50137611 ETH |
|         | 7 September 2023 | 10:35pm | Credit in                 | Mr B                     | £1,900         |
| 3       | 7 September 2023 | 10:37pm | Exchanged GBP to ETH      |                          | £1,900         |
|         | 7 September 2023 | 10:38pm | Cryptocurrency withdrawal |                          | 1.38127941 ETH |
|         | 8 September      | 10:13pm | Credit in                 | Mr B                     | £2,000         |

|   |                   |         |                           |              |                   |
|---|-------------------|---------|---------------------------|--------------|-------------------|
|   | 2023              |         |                           |              |                   |
| 4 | 8 September 2023  | 10:15pm | Exchanged GBP to ETH      |              | £2,000            |
|   | 8 September 2023  | 10:43pm | Cryptocurrency withdrawal |              | 1.466 ETH         |
|   | 10 September 2023 | 10:33pm | Credit in                 | Mr B         | £2,000            |
| 5 | 10 September 2023 | 10:34pm | Exchanged GBP to ETH      |              | £2,000            |
|   | 10 September 2023 | 10:35pm | Cryptocurrency withdrawal |              | 1.477 ETH         |
|   | 11 September 2023 | 7:45pm  | Credit in                 | Mr B         | £100              |
| 6 | 11 September 2023 | 7:46pm  | Exchanged GBP to ETH      |              | £100              |
|   | 11 September 2023 | 7:46pm  | Cryptocurrency withdrawal |              | 0.07573733 ETH    |
|   | 14 September 2023 | 10:26pm | Credit in                 | Mr B         | £2,000            |
| 7 | 14 September 2023 | 10:27pm | Exchanged GBP to ETH      |              | £2,000            |
|   | 15 September 2023 | 7:54pm  | Exchanged ETH to GBP      |              | 1.46647528 ETH    |
| 8 | 15 September 2023 | 8:05pm  | Faster payment            | Mr B         | £1,851.53         |
|   |                   |         |                           | <b>Total</b> | <b>£13,851.53</b> |

Mr B realised he had been scammed when he tried to make a withdrawal from D's platform but was asked to make a payment of \$32,000. When he sent the money from G it quickly disappeared, and he was asked to pay it again. He raised around £5,000 and sent that from G but those funds also disappeared. He then lost contact with the third-party who had contacted him. So, Mr B contacted Revolut to make a claim. Revolut considered the claim but decided not to offer Mr B a refund. As a result, Mr B brought his complaint to this service.

Revolut said that cryptocurrency withdrawals aren't within the jurisdiction of the Financial Ombudsman Service and it didn't consider any of the other payments as unusual or suspicious here.

Our investigator didn't think the complaint should be upheld. He said that he didn't think the cryptocurrency withdrawals in Ethereum are a regulated activity under the rules that govern our service – known as DISP - specifically under DISP 2.3. But the deposits into Mr B's Revolut account from G, the exchange into cryptocurrency and the faster payment to an account Mr B held with a payment service provider (Payment 8) could be considered.

The investigator felt that Revolut ought to have been concerned about the fourth payment towards the scam in the table above as by that point the activity was sufficiently unusual and suspicious. But he said that even if Revolut had intervened and provided a tailored written warning he wasn't persuaded this would've made a difference here because he had listened to two calls Mr B had had with G who had stopped two payments on 05 October and 06 October 2023. During those calls Mr B told G he was trading alone, and no third party was involved. The investigator added that Revolut hadn't treated Mr B unfairly by not attempting to recover his money as he was satisfied the sending of cryptocurrency wasn't regulated and payment 8 was sent to an account held in Mr B's name before being sent to the scammer.

Mr B disagreed and asked for an Ombudsman's review. He said that Revolut didn't ask enough probing questions and if it had he would've been honest about what had happened.

### **What I can and can't look into in relation to this complaint**

Our service can't consider all complaints that are referred to us. The rules under which we operate are set out in the Financial Conduct Authority's Handbook and are collectively known as the DISP rules. We can only consider complaints that fall within our jurisdiction, in line with these rules.

Particularly relevant to Mr G's complaint is DISP 2.2 which states:

DISP 2.2: Which complaints can be dealt with under the Financial Ombudsman Service?

2.2.1 The scope of the Financial Ombudsman Service's two jurisdictions depends on:

(1) the type of activity to which the complaint relates...

Those activities are then listed in DISP 2.3 (although I will not list all of them here). We can only consider complaints that relate to an act or omission by a financial business in carrying out one or more of the activities listed in DISP 2.3.

One of the most common activities we receive complaints about is regulated activities. To the extent that Mr B complains about the loss he's suffered as a result of sending money from his e-money account with Revolut to a payment service provider, I'm satisfied that that part of his complaint falls within our jurisdiction as it concerns a regulated activity as set out in the list ('payment services').

Cryptocurrency isn't electronic money or fiat currency according to the Financial Conduct Authority – instead it classifies cryptocurrency, and similar cryptocurrency-assets, as 'exchange tokens'. The operation of cryptocurrency services isn't currently regulated by the regulator.

Nor are there any other activities listed in DISP 2.3 which would cover the activity this part of Mr B's complaint relates to – namely, withdrawing the cryptocurrency and sending it on to the scammer. And so, I don't think his complaint in relation to the cryptocurrency payments relates to an activity covered by us.

I am mindful that Mr B deposited fiat currency to his Revolut account and then exchanged this into the cryptocurrency which was withdrawn and ultimately lost to the scam. But the sending of the cryptocurrency was provided separately from the provision of Mr B's main e-money account. In the circumstances, I don't consider Revolut's provision of sending cryptocurrency services to be sufficiently closely linked to its provision of payment services to Mr B (through the provision of his e-money account) that it should be deemed ancillary to this. So, I'm satisfied I don't have the power to investigate the withdrawals of cryptocurrency here.

### **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 reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr B has been the victim of a cruel scam. I know he

feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

Mr B's other complaint against G and whether it should've done more to stop this scam is being considered under a separate complaint reference number.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

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.

And, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Revolut should have fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances (irrespective of whether it was also required by the express terms of its contract to do so).

This service's approach is that Revolut should have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a cryptocurrency wallet held in the consumer's name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallets.

This service considers it appropriate for Revolut to also provide warnings when making unusual and suspicious payments to external cryptocurrency wallets. And we also consider it appropriate for Revolut to do the same when a customer uses Revolut's own facilities to exchange fiat currency into cryptocurrency. That's because this also carries a similar risk of later harm to a cryptocurrency related scam. So, Revolut should've provided a warning here for payment four as it would have for any fiat payment being sent to another high street bank or EMI.

The investigator felt that Revolut should've stepped in when Mr B exchanged £2,000 to Ethereum on 08 September 2023. I believe it would be reasonable for me to conclude that by that point there was enough happening here for Revolut to have found the activity sufficiently unusual and suspicious. But, ultimately, I don't believe I need to make a finding on where it would've been reasonable for Revolut to step in and provide a warning to Mr B here.

That's because I've listened to the calls Mr B had with G in relation to payments he was making towards the same scam. Having done so, I'm satisfied that – on balance – if Revolut had provided a tailored warning in line with the approach of this service it wouldn't have made a difference here.

G asked him if any third parties had contacted him recently and whether anyone had told him how to use a genuine crypto platform. Mr B said no to both these questions. He also told G that he hadn't been instructed to download or install anything (despite downloading

various accounts with crypto exchanges, authenticator applications, messaging platforms and other bank accounts). Mr B also denied that anyone else was involved in the movement of his money, had advised him to invest or that he had been assisted by a broker.

I'm satisfied that Mr B was likely under the influence of the scammer here. He questioned some of the reviews that he had seen online with the scammer at the beginning of the scam which mentioned that people had been unable to withdraw their funds and that this was a scam. Mr B says those reviews were in relation to a genuine crypto exchange rather than D. But he also told the scammer he was sceptical, and he was putting trust in someone he barely knew.

Later on in the scam, Mr B was happy to make a large payment from G (around \$32,000) towards a withdrawal fee and when that disappeared, he then made a further \$5,000 payment from G. And he was happy to tell G he hadn't been asked to invest in crypto by any third parties and that he was doing all of this himself. So, I'm not satisfied – on balance - any earlier intervention by Revolut on any of the payments would've made a difference here given Mr B's later responses to G's questions.

### *Recovery*

As I don't consider the cryptocurrency withdrawals to be a regulated activity, I can't make a finding on whether Revolut did enough to recover Mr B's money in relation to those. And because the funds on payment eight went to an account in Mr B's name before being forwarded to the scammer they could not have been recovered by Revolut.

I appreciate this will come as a disappointment to Mr B, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that Revolut can fairly or reasonably be held liable for his loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 October 2024.

Mark Dobson  
**Ombudsman**