

## **The complaint**

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

Mr W is being represented by solicitors in his 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 seven transactions totalling just over £8,800 which Mr W made from his Revolut account over two days in July 2021. Mr W has explained he wanted to withdraw profits from his investment with a company "P", which was recommended to him by a family friend he'd known for some time.

The initial investments were made from Mr W's account with a high street bank. When requesting a withdrawal, P led Mr W to believe that he needed to pay tax on his profit. Under their instructions, an account was opened with Revolut. Mr W transferred funds from his account with the high street bank before sending it on to beneficiaries as instructed. When he was unable to make withdrawals, Mr W realised P had scammed him.

Mr W complained to Revolut through his representative in early 2023, but it refused to refund his loss. Our investigator thought that Revolut should have taken additional steps and questioned Mr W when he authorised the third transaction, seeing as it was made in rapid succession to the first two transactions. As the amount sent so far to a new payee (all three transaction went to the same beneficiary) had exceeded £5,000, the investigator felt a human intervention was warranted at that time instead of a written general scam warning which Revolut provided. Had it done so, the investigator thought the scam would have unravelled given Mr W would have explained he'd been asked to pay tax to withdraw his profits.

The investigator recommended Revolut to refund all the transactions from and including the third transaction in full, as they didn't think Mr W should share liability for what happened. They explained he decided to invest in P on the basis of a personal recommendation from a close friend who had also invested in P. The investigator also acknowledged that Mr W did carry out some research into P and claimed he didn't see anything adverse online. Although the Financial Conduct Authority had published a warning about P prior to the disputed payments, the investigator concluded it appeared that Mr W didn't see this.

I issued my provisional decision last month and explained why I didn't intend upholding this complaint. I said –

*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.*

*There's no dispute that Mr W made the transactions using his security credentials, and so they are authorised. But, in accordance with the law, regulations and good industry practice, a payment service provider including an EMI should be on the lookout for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert it to potential fraud or financial crime, it might be fair and reasonable to hold it liable for losses incurred by its customer as a result.*

*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 W when he authorised the first disputed transaction of £2,001. That said, I understand that Revolut provided a general scam warning at the time, given it went to a new beneficiary. In the circumstances, I consider that to be a proportionate step to the risk involved – namely, a new beneficiary.*

*The second transaction, also for the same amount and to the same beneficiary, was made ten minutes later. Given what I've said above about EMIs, I don't consider that it warranted any intervention from Revolut. Mr W's representative also appears to agree as the investigator made the same finding.*

*But, three minutes later, when Mr W authorised the next transaction – £1,196.69 to the same payee – I consider an unusual pattern had emerged. As the investigator noted, there had been a spike in activity, with multiple payments to the same payee over a short period of time. I consider that Revolut should have taken additional steps when it received Mr W's instruction to satisfy itself that he wasn't at a heightened risk of financial harm from fraud.*

*The investigator's view was that a proportionate response to that risk would have been for Revolut to have carried out a human intervention. In other words, it should have engaged with Mr W directly through one of its agents and made further enquiries. But I'm mindful that these transactions happened three years ago. And they went to an individual's personal account, they weren't identifiably cryptocurrency related. The industry's knowledge of investment scams, and the proportionate response to them, has evolved over time. As these transactions occurred in 2021, I must consider what was a proportionate intervention under these circumstances at that time.*

*I consider that a proportionate response would have been for Revolut to have asked Mr W about the purpose of the payment during the payment flow, and then to have provided him with a written warning specific to the scam risk identified based on the payment purpose given. In other words, while I would have expected additional steps, I wouldn't have expected those steps to go beyond an automated written warning.*

*From what we know about Revolut's payment flow, when asking for the payment purpose it would have provided a list of options for Mr W to choose from. It is also my understanding that in 2021, the options would have included investment amongst other prevalent scam types (such as safe account and goods and services). I can't say for certain how Mr W would have responded to the payment purpose question. I'm conscious he told our service that the scammer was guiding him throughout the payments. So, it's possible Mr W might have been coached into selecting the payment purpose. In which case, it's likely that a misleading payment purpose option would have been suggested by the scammer.*

*But I accept that it's also possible Mr W would have selected the most relevant option from the available list. Based on my experience, making a payment to withdraw profits would not have appeared on the list of options. The closest or most appropriate option would have been investment. If it were the case that Mr W would have made the choice without any involvement from the scammer, I think it's likely he would have selected investment. And in that instance, I would have expected Revolut to have provided a written warning about investment scams, tackling some of the key features prevalent at the time. Had it done so, I'm not persuaded that it would have prevented Mr W from going ahead.*

*I say this because we know Mr W had been personally recommended P from a family friend he'd known for a long time. He's also told us that he'd done some research into it prior to deciding to invest. And from what I can see, at the time of making these transactions, he didn't have any concerns with how his investment was doing. I would have expected the warning to have included the typical hallmarks of investment scams, such as being contacted out of the blue; celebrity endorsements; promises of unrealistic profits; etc. But I wouldn't have necessarily expected the warning to include being asked to make further payments to make withdrawals.*

*Even if the warning had mentioned that scammers often use remote access software, as was the case here, weighing up everything, I'm not convinced that Mr W would have stopped in his tracks. I'm also mindful that Mr W's told us he recalls seeing a warning from his bank, where he made the initial investments from, but he was referred by his friend and that recommendation made it more genuine to him.*

*What this means is that had Revolut taken additional steps and provided a tailored written warning when Mr W authorised the third transaction, or arguably during a later transaction, I'm not convinced that it would have limited his loss.*

*I can see that in their view, the investigator noted that Revolut blocked a transaction for £743.51 which Mr W made after the third transaction. But it seems the investigator has misunderstood the chain of events. Revolut has explained that the fourth transaction was made via transfer link, and a payment made in this way is held pending until the beneficiary accepts it. This pending state appears as blocked on Revolut's systems. Revolut states – and I can see – that the fourth transaction did in fact go through successfully less than a minute later.*

*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. Given Mr W didn't report the transactions until nearly 18 months later, it's unlikely a recall request to the beneficiary accounts would have been successful. And that is what happened here when Revolut attempted recovery.*

*In summary, I know that Mr W will be disappointed with this outcome. Not least because the matter has been ongoing for some time and the investigator upheld the*

*complaint. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which Mr W finds himself, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for his loss.*

I invited comments from both parties.

Mr W's representative replied and said they didn't agree with my provisional findings. In summary, the representative says enough was going on with Mr W's account with Revolut that a human intervention would have been appropriate.

Revolut didn't reply and the deadline I gave has now passed. I've therefore assumed that 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.

I'd like to thank Mr W's representative for their comments. I appreciate the strength of feelings that they have on the matter. But in making my provisional findings, I had already considered their point about the account activity on Mr W's Revolut account. In the decision, I also explained why I don't consider a human intervention was warranted at the time I would have expected Revolut to have taken additional steps.

As such, the appeal submitted by Mr W's representative doesn't change the outcome I 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 W to accept or reject my decision before 25 September 2024.

Gagandeep Singh  
**Ombudsman**