

The complaint

Mr K complains that Revolut Ltd didn't do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he'd reported the scam to it.

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.

Mr K was introduced to an investment opportunity by a colleague who said they'd received good returns by investing in cryptocurrency through a company which I'll refer to as "C". Mr K undertook some research noting C appeared legitimate because it was registered overseas and had several positive reviews. Unfortunately, C was a scam.

C encouraged its members to invite new participants with the promise of 3-21% for their referrals. Mr K was required to first purchase cryptocurrency through a cryptocurrency exchange company I'll refer to as "P", and then load it onto an online wallet. He transferred funds from Bank B to Revolut and between 25 October 2023 and 21 November 2023, he made eleven transfers to P from his Revolut account totalling £12,790.

Mr K complained to Revolut when he realised he'd been scammed, but it refused to refund any of the money he'd lost and so he complained to this service. His representative said that if Revolut had contacted him to discuss the possibility of a scam, he wouldn't have proceeded with the payments. They argued that Revolut's warnings were unsuitable and asking consumers if they are certain that a recipient is legitimate is passing the onus to them to accept the risk. They explained that Mr K had done some research and believed the investment was genuine.

Revolut said the account was opened on 24 October 2023 and when Mr K opened the account, he selected the account opening purpose as: foreign exchange, purchase protection, vaults, overseas transfers, rewards, stocks, cashback, crypto, transfers. It said it didn't have any transactional data to compare to the fraudulent transfers with, so it had no reasonable basis to believe he could be a victim of financial harm.

Revolut said that when Mr K added a new beneficiary he was warned: *Do you know and trust this payee? If you're unsure, don't pay them, as we may not be able to help you get your money back. Remember, fraudsters can impersonate others, and we will never ask you to make a payment.* Mr K acknowledged the warning before proceeding with the payments. It said the first scam payment was flagged and Mr K selected 'transfer to my other account', as the payment purpose, which wasn't accurate. He was then asked to complete a questionnaire and shown a tailored written warning and required to acknowledge the risks, before proceeding with the payment.

Its fraud system triggered again when Mr K tried to make payments on 27 October 2023 for £3,400 and £3,641. He selected 'as part of an investment' and 'transfer to my other account' as the payment purposes and was again asked to complete a questionnaire and to

acknowledge the risks before proceeding with the payments. He was also contacted via the live-chat facility where he was told the payments were high risk. He proceeded with one of the payments but decided to cancel the payment of £3,641.

Revolut argued that even though Mr K was referred to the investment by a friend, he should have done due diligence before sending the funds and had he done so he'd have discovered warnings which pre-dated the payments.

It said it was used as an intermediary to receive funds from Mr K's main bank account, and then transfer on to a legitimate external account held with the cryptocurrency platform in his own name, where he lost control of the funds. So, the fraudulent activity didn't take place on the Revolut platform. It argued that for this service to effectively apply the reimbursement rules to self-to-self transactions is an error of law, and there is no rational explanation as to why we consider it should be responsible for the consumer's loss where the relevant transactions are self-to-self.

It has also argued that in *Philipp v Barclays Bank UK plc*, the Court held that in the context of APP fraud, where the validity of the instruction is not in doubt, no inquiries are needed to clarify or verify what the bank must do. The bank's duty is to execute the instruction and any refusal or failure to do so will *prima facie* be a breach of duty by the bank.

Finally, it said it didn't have enough information to seek recovery of the funds and because of the passage of time, it was unlikely that any funds remained.

Our investigator didn't think the complaint should be upheld. He noted when the first payment (along with another payment for £1,300) was flagged, Mr K said he was buying cryptocurrency, he wasn't asked to install any software, he'd invested in cryptocurrency before, he'd checked the company was on the FCA register, and he discovered the investment through a 'friend or family member'. Revolut issued tailored warnings and a risk agreement was presented for him to acknowledge.

Our investigator was satisfied that based on the value of the payment and Mr K's responses, the warnings were proportionate. And given their value of the next two payments and the fact P was no longer a new payee, it wasn't unreasonable that Revolut didn't intervene. She explained the next two payments were blocked, and Mr K chose 'part of an investment' as the payment purposes and completed the questionnaire with the same answers he provided before. He was then directed to the in-app chat and advised that if an investment was too good to be true it was highly likely to be a scam.

Our investigator thought Revolut should have done more at this point because the payments were identifiably going to cryptocurrency and they were of significant value, so it should have asked more probing questions. She also thought that because of the value of the payment, it should have intervened on 5 November 2023 when Mr K transferred £5,000.

However, she didn't think a better intervention on 27 October or another intervention on 5 November 2023 would have made any difference because the investment was recommended by colleagues who Mr K believed had received returns, he'd seen persuasive sales literature from C, and there was no FCA warning about C (until December 2023). She also noted he was given a warning by Bank B on 30 October 2023 when he transferred from Bank B to Revolut. Bank B had said it was concerned about the transfers and asked him to visit the branch with identification. While at the branch, he had a call with the fraud team and was required to watch some videos about investment scams before he proceeded with the payments. So, she didn't think further questioning or warnings from Revolut would've made a difference.

Finally, she explained there was no prospect of a successful recovery because the funds had been moved on from Mr K's own account. And he wasn't entitled to any compensation. Mr K has asked for his complaint to be reviewed by an Ombudsman questioning why Revolut didn't place his account on hold. His representative has argued that Revolut should have intervened sooner, and the warning from Bank B wasn't specifically related to cryptocurrency, so it wasn't effective. And if he'd received a warning from Revolut having already received a warning from Bank B, it would have stopped the scam.

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 K 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.

I'm satisfied Mr K 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr K is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Mr K didn't intend his money to go to scammers, he did authorise the disputed payments. Revolut Ltd is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

Revolut was an emoney/money remittance provider and at the time these events took place it wasn't subject to all of the same rules, regulations and best practice that applied to banks and building societies. But it was subject to the FCA's Principles for Businesses and BCOBS 2 and owed a duty of care to protect its customers against the risk of fraud and scams so far as reasonably possible.

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.

I've thought about whether Revolut could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Revolut ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it did enough to warn Mr K when he tried to make the payments.

The payments did flag as suspicious on Revolut's systems and so I've considered whether its responses were proportionate to the risk presented by the payments and whether there was anything else it could have done to prevent Mr K's loss.

Mr K was shown a new payee warning when he set up the new payee before the first transfer, and there were interventions before three of the payments. On 25 October 2023, he was asked to provide a payment purpose and he said he was transferring funds to his other account. He was then shown some warnings and required to answer a questionnaire, when he said he was investing in cryptocurrency, he hadn't been asked to install any software, he learned about the opportunity through friends and family, he'd invested in cryptocurrency before, and he'd checked the FCA register. He was then shown warnings which were relevant to the payment purpose he'd selected and asked to acknowledge the risks before proceeding with the payment.

Even though Revolut knew (because of the nature of the payee and the answers given by Mr K) he was buying cryptocurrency, because of the value of the payment and the fact none of the answers he gave indicated he was being scammed, I'm satisfied the intervention was proportionate to the risk and that, in the circumstances, it didn't need to do anything else.

Revolut intervened again on 27 October 2023 when Mr K tried to make payments for £3,641 and £3,400. I've considered whether Revolut did enough during this intervention, and I'm satisfied Mr K didn't say anything which ought to have indicated to it that he was being scammed. Our investigator thought that as he was making significant payments to a cryptocurrency merchant, Revolut should have asked some more questions around the circumstances of the payments, but I'm not persuaded this would have uncovered the scam.

However, I don't think the warnings Mr K was shown went far enough because Revolut should have provided a written warning covering some of the key features of cryptocurrency-related investment scams, for example:

- Victims are usually targeted via social media or email.
- Scammers will utilise fake positive reviews from other individuals, or fake celebrity endorsements, to persuade you the investment opportunity is legitimate
- Fake online trading platforms scammers utilise can appear professional and legitimate.

I've thought carefully about whether a specific warning covering off the key features of cryptocurrency investment scams would have likely prevented any further loss and, on the balance of probabilities, I don't think it would have.

Because the investment was recommended by a colleague and there was no 'broker' or 'account manager' the key hallmarks of common cryptocurrency investment scams present were missing, so the warning might not have resonated with Mr K. He had no reason to doubt the investment was genuine because it had been recommended by a colleague who told him they'd made returns on their investment. And he'd done what he thought was reasonable due diligence which included checking for warnings on the FCA website and reading positive reviews online, so he believed the investment was genuine.

Further, Bank B had required him to attend the branch due to concerns it had about the payments he was making from that account and that didn't change his mind. I note the representative has said the warnings he was given weren't tailored to cryptocurrency scams, but I'm satisfied the experience of having gone into branch and the videos he was required to watch would have been altogether more impactful than the warning I would expect Revolut to have shown Mr K and so, on the balance of probabilities, even if Revolut had provided a warning of the type I would expect it to have provided, I don't believe it would have made any difference.

Finally, our investigator thought Revolut should have intervened on 5 November 2023 when Mr K transferred £5,000 to P, but I don't think the payment was particularly unusual when compared to the payments he'd made on 27 October 2023. And even if I did think Revolut needed to intervene, I would only say it would need to show her a written warning tailored to cryptocurrency investment scams, which I've explained wouldn't have made any difference.

Recovery

I don't think there was a realistic prospect of a successful recovery because Mr K paid an account in his own name and moved the funds onwards from there.

Compensation

The main cause for the upset was the scammer who persuaded Mr K to part with his funds. I haven't found any errors or delays to Revolut's investigation, so I don't think he is entitled to any compensation.

I'm sorry to hear Mr K has lost money and the effect this has had on him. But for the reasons I've explained, I don't think Revolut is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

For the reasons I've outlined above, 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 24 January 2025.

Carolyn Bonnell
Ombudsman