

The complaint

Mr R complains that Revolut Ltd hasn't protected him from losing money he paid to two of Revolut's customers as a result of fraud.

What happened

On 10 July 2024, I issued my provisional decision on this complaint. I wanted to give both parties a chance to respond before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

"The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, Mr R has explained that in November and December 2021 he made payments of €152,740 and €1,049 to two Revolut customers as a result of email invoice interception fraud. Mr R complained to Revolut but they couldn't reach agreement about things, so Mr R referred his complaint about Revolut to us. Our Investigator couldn't resolve the matter informally, so the case has been passed to me for a decision.

What I've provisionally 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've summarised this complaint briefly, in less detail than has been provided, and in my own words. I've focused on what I think is the heart of the matter. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Mr R's payment of €152,740 was sent to the relevant Revolut recipient account from Mr R's account with a bank who in this decision I'll call "H". At the same time as this provisional decision about Revolut, I've concurrently issued a provisional decision on a separate but related complaint Mr R has brought to our service about H. In that separate provisional decision, I've explained why I'm not minded to uphold Mr R's complaint about H.

Mr R's payment of €1,049 was sent to the relevant Revolut recipient account from Mr R's account with a bank who in this decision I'll call "C". Mr R hasn't brought a separate complaint about C to our service.

I'm minded to uphold this complaint about Revolut in part. I'll explain why.

In reaching my decision I am required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time. But ultimately my role as an Ombudsman is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case.

A receiving payment service provider (such as Revolut in this case) isn't normally a service provider to the sending bank's customer, so there isn't any contractual relationship between them and no duty of care has been found to arise at common law. And the receiving payment service provider's responsibility under The Payment Services Regulations 2017 (the PSRs) is to credit the account identified in the payment instruction. But in providing its services to the public, payment service providers like Revolut must operate in a wider regulatory context. And I'm satisfied from this that it's reasonable to expect a payment service provider such as Revolut to take reasonable steps to ensure its accounts aren't used to further financial crime or misappropriate funds. And if Revolut's acts or omissions in this regard unfairly resulted in loss to Mr R, then I'd consider it fair and reasonable for Revolut to put things right.

I don't think there were failings by Revolut when opening the two accounts in question. I'm satisfied it followed its process and took appropriate documents from the account holders when doing so. So, I don't think it could have prevented Mr R's loss in this way.

And unfortunately, by the time Revolut was put on notice Mr R had been scammed, there weren't any remaining recoverable funds for Mr R in respect of his first payment of €152,740, and there was only a very small amount (€13.04 as I understand things, which Revolut has refunded) remaining of the second payment of €1,049.

However, when Mr R's first payment of €152,740 arrived in November 2021, it flagged for further checks on Revolut's system; and Revolut asked its customer for more information about the payment before allowing them access to the funds.

I've seen the evidence which I understand was then provided to Revolut by its customer, which takes the form of an invoice addressed to Mr R for €152,740 payable to Revolut's customer for what I'll call a "B". Revolut accepted this evidence and released the funds to its customer. But Revolut clearly had some concerns about the payment as it flagged and it took the above steps. And I don't think it was reasonable for Revolut to accept this invoice and I think it should have gone further. This is because the payment rightly flagged on Revolut's system for good reason. The invoice provided indicated Mr R was paying Revolut's customer for a "B" and this doesn't seem to align with what Revolut would reasonably expect its customer to invoice for given the apparent nature of its business. And Revolut really ought to have been aware of common scams, including email invoice interceptions, which ought to have been very well known to Revolut by this time in 2021. It's common with such scams for there to be a mismatch between the beneficiary information included with a payment instruction and the name on the recipient account. Revolut should also have been alert to the possibility of evidence like the invoice provided to it by its customer being fabricated.

The evidence provided by Mr R is clear that his payment was intended for who I'll call "S". S's name was also included with the payment instruction as the beneficiary name. But the recipient account held with Revolut was held in a different name. I can't see that Revolut challenged its customer about this.

I understand Revolut may argue that it wouldn't have used the beneficiary name as a unique identifier when accepting the payment into the account; and that the beneficiary name may not have been viewable by its personnel when reviewing the transaction. But these points wouldn't change my mind. The beneficiary name details would have been in Revolut's possession by way of the payment instruction received from the sending bank H. And when the payment was rightly flagged on Revolut's systems as warranting attention, I don't think it's unreasonable to expect Revolut to take reasonable steps to properly check, so far as is reasonable and proportionate, what its customer was telling it. I can't say that if Revolut's personnel didn't see the beneficiary name given on the payment instruction, that it did

nothing wrong in not doing so. There may be cases where a proportionate and reasonable investigation wouldn't necessarily involve checking the intended beneficiary on the payment instruction matched the name on the recipient account. But I don't think this is one of them. As I have said, Revolut really ought to have been aware by this time in 2021 about email invoice interception scams, their increased prevalence, and the possibility of evidence being fabricated (particularly the invoice here), which was obviously the whole scam in the first place. As I've already said, in this case the goods the invoice were for didn't align with what Revolut might reasonably expect its customer to invoice for, given the apparent nature of its business. And Revolut had in its possession information which I think reasonably ought to have been considered at the time – the beneficiary name. In which case, Revolut would have seen the beneficiary name on the payment instruction didn't match the name on the recipient account, bearing the hallmarks of an invoice interception scam.

Ultimately, in these circumstances, I think the red flags were too significant and I don't think Revolut's customer would have been able to provide a satisfactory explanation before Revolut was on notice Mr R's payment had been made as the result of a scam. Such that, I think Mr R's payment reasonably ought to have remained available for recovery, but for Revolut's failings.

With regards to Mr R's later payment of €1,049 made to a different recipient account with Revolut, it doesn't automatically follow, just because of what I've said above, that I think Revolut ought reasonably to have prevented the loss of this payment too. I don't think there was anything of concern about this second recipient account or the payment such that this one ought to have flagged for checks before Revolut allowed its customer access to the funds. So, probably the only way Mr R might not have lost this payment is if he hadn't made it in the first place. But this payment was sent for a different beneficiary and to a different recipient account than the first one. Mr R obviously hadn't by this stage realised he'd been scammed, or else he wouldn't have sent the payment. And whilst I can't be sure about this, it seems unlikely that this would have been different – given the timing of the payments and how the scammers set things up – even if Revolut had continued to inhibit the account the first payment of €152,740 was sent to, as I've said above it should have done. So I don't think I can fairly say any failings on Revolut's part are most likely the proximate cause of Mr R's loss of this second payment of €1,049.

Should Mr R bear any responsibility for his loss?

I've thought about whether Mr R should bear any responsibility for the loss of the €152,740 payment I've said Revolut should have prevented. In doing so, I've considered what the law says about contributory negligence, as well as what I consider to be fair and reasonable in the circumstances of this complaint.

Having done so, I can't ignore what I've found in provisionally deciding Mr R's linked but separate complaint about H (from where he sent the payment to the Revolut recipient account). I've explained in that case why I don't think H's interventions with this payment were unreasonable, or that H ought reasonably to have nonetheless prevented Mr R from making the payment. It appears that on several occasions, responding to H's questions about whether he'd verbally verified the beneficiary account details with the vendor, Mr R said yes he had, when this wasn't correct. So whilst I have no doubt Mr R wishes he'd been more careful now, I don't think it's unfair to say Mr R wasn't as careful with his money as he reasonably ought to have been. This was an incredibly large payment to make without correctly answering H's questions focused on protecting him from fraud. So whilst I'm satisfied Revolut's proper actions would have made a difference and prevented the loss of this payment, I'm satisfied in these circumstances that Mr R should share equal responsibility for this. I'm therefore satisfied that Revolut should pay Mr R half of

€152,740, which is €76,370. To compensate Mr R for having been deprived of the use of this money, Revolut should also pay Mr R interest on this amount from the date of loss to the date of settlement calculated at 8% simple per year.

My provisional decision

For the reasons explained, I am minded to uphold this complaint in part and to direct Revolut Ltd to pay Mr R:

- €76,370; plus
- interest on this amount calculated at 8% simple per year from the date of loss to the date of settlement (if Revolut deducts tax from this interest, it should provide Mr R with the appropriate tax deduction certificate)."

Mr R accepted my provisional decision. Revolut disagreed and in summary said:

- It seems my provisional decision suggested compensation as if the CRM code, or mandatory reimbursement rules (proposed by the Payment Systems Regulator), apply. It seems like I am relying on CRM code ALL 2(2) which states "*Where one Firm only has breached the SF and an exception under R2(1) or R2(2)(b) applies, the Customer will receive a 50% reimbursement from the Firm that breached the SF*". But Revolut isn't a signatory to the CRM code, and the mandatory reimbursement rules aren't yet in force, so they don't apply here.
- I said in my provisional decision that Revolut really ought to have been aware of common scams, including email invoice interceptions, which ought to have been very well known to Revolut by this time in 2021. But it doesn't think it had experienced many email invoice interception scams in 2021. It doesn't think it was very familiar with them. Its understanding is that they were fairly 'new' for other financial institutions too. So it would like to understand my basis for thinking otherwise and for what I've said about 'good industry practice'.
- It strongly believes Mr R wasn't truthful with H while transferring the disputed funds to Revolut. It would like to emphasise that had Mr R been honest with H, the transaction would have been stopped. So it thinks in these circumstances Mr R is 100% at fault.

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've considered Revolut's response to my provisional decision carefully, but the points it has made don't persuade me to reach a different conclusion. I've explained in some detail in my provisional decision why I thought Revolut should be partially responsible for Mr R's loss and I have little to add to what I've already said.

Revolut said in its response to my provisional decision that it appears as though my provisional award was made as if the CRM code or mandatory reimbursement rules apply, when in fact they don't. However, I did not mention the CRM code or proposed mandatory reimbursement rules in my provisional decision at all because they don't apply here. So, I'm not sure why Revolut has suggested I have applied them. Instead, in my provisional decision, I explained what I would reasonably have expected from Revolut at the time, and why I didn't think it acted fairly and reasonably. And I suggested Mr R should share equal responsibility with Revolut for the loss of the €152,740 because of contributory negligence on Mr R's part.

Revolut has also suggested that it wasn't very familiar with email interception scams in 2021 and it thinks they were also fairly 'new' then for other financial institutions too; so it's asked for the basis on which I think otherwise, and what I've said about good industry practice. But it's clear to me that in 2021 Revolut really ought to have been well aware of scams like this. The simple fact is scams like this were becoming more common. To give just a few examples, The Guardian featured a news piece on them in 2017; H was very well aware of them in 2021 because its intervention with Mr R was clearly focused on it. And I don't think H was an outlier in terms of what it knew and ought to have known about this type of scam. Information in the public domain shows other banks were well aware of them by at least 2018 and 2019 already too. Police Scotland covered them in 2020. And there's no doubt in my mind that regulated firms ought reasonably to take notice of common types of scams. And if Revolut wasn't aware of this type of scam in 2021, at the time of Mr R's payments, I think it certainly ought to have been.

I've also thought about Revolut's point, made in response to my provisional decision, that it thinks Mr R was 100% at fault, given that had he been honest with H, the payment would never have been made in the first place. I do understand why, in those circumstances, Revolut has suggested Mr R should take responsibility for all of the loss, not just half of it. However, my final decision on the case about H, which I've issued concurrently with this one, has remained as explained in the provisional decision. That is, for the reasons already explained, I do think Mr R should have been more careful and for that reason it is appropriate that he shares responsibility with Revolut for the loss of the €152,740 payment. But I don't think it would be right to say Mr R's actions should completely absolve Revolut of its responsibility here, where the payment was nonetheless sent, and I've found that Revolut, as the receiving payment service provider, didn't act fairly – and that it reasonably ought to have prevented the loss of this payment. So for the reasons I've already explained, I remain persuaded compensation based on Revolut paying Mr R half of the €152,740, and Mr R accepting responsibility for the remaining half, remains fair.

This means that for the reasons explained, I see no reason to depart from my provisional findings, as set out above.

My final decision

For the reasons explained, I uphold this complaint in part and I direct Revolut Ltd to pay Mr R:

- €76,370; plus
- interest on this amount calculated at 8% simple per year from the date of loss to the date of settlement (if Revolut deducts tax from this interest, it should provide Mr R with the appropriate tax deduction certificate).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 October 2024.

Neil Bridge
Ombudsman