

The complaint

Miss R complains that Revolut Ltd won't refund the money she lost when he was the victim of a scam.

What happened

In August 2023, Miss R received a phone call from someone who said they worked for a major UK bank and that she had been the victim of identity theft. The caller told her fraudsters were trying to open accounts using her details and make payments from one of her existing accounts, so she should transfer her money to another account to keep it safe. And as Miss R believed the caller was genuine, she then made a number of payments out of her Revolut account to account details the caller gave her.

I've set out the payments Miss R made from her Revolut account below:

Date	Amount
28 August 2023	£4,950
28 August 2023	£2,550
28 August 2023	£2,000
28 August 2023	£930

Unfortunately, we now know the caller was a scammer. After the scam was uncovered, Miss R reported the payments to Revolut and asked it to refund the money she had lost.

Revolut investigated but said it had shown Miss R sufficient scam warnings before she made the payments and done all it could to try to recover the money she lost. So it didn't agree to refund the payments. Miss R wasn't satisfied with Revolut's response, so referred a complaint to our service.

I sent Miss R and Revolut a provisional decision on 23 August 2024, setting out why I wasn't intending to uphold this complaint. An extract from my provisional decision is set out below:

"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.

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 October 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);*
- 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.*

But, even if Revolut had recognised that Miss R was at heightened risk of financial harm from fraud when making these payments, I don't think the action I would have expected it to take would have prevented her loss. I'll explain why below.

I'm satisfied Revolut ought to have recognised that Miss R was at heightened risk of financial harm from fraud when she made the first payment here. The payment was for a significant amount, and an amount significantly larger than any other payments made out of Miss R's account in the previous months. It was also a transfer, whereas the vast majority of payments out of Miss R's account were card payments and it was very rare for her to make an outgoing transfer – particularly to a new payee. So I think Revolut should have recognised a risk here.

I think a proportionate response to the risk I think Revolut should have identified would have been for it to attempt to establish the circumstances surrounding the payment before allowing it to leave Miss R's account. I think it should have done this by, for example, directing Miss R to its in-app chat to discuss the payment further. But, had it done this, I'm not persuaded that it would have prevented Miss R's loss.

Revolut did ask Miss R a series of questions about this first payment. It asked her to answer truthfully and warned her that fraudsters may ask her to hide the real reason for the payment.

It then asked Miss R why she was making the payment, and gave her a list of options to choose from. But Miss R selected that the payment was to pay a family member or friend for rent or bills, despite this not being the case. She also selected that she wasn't being assisted through the questionnaire, despite now telling our service that she was being told how to answer by the scammer. And she selected that she hadn't been asked for help unexpectedly, she had paid the person before using the same bank details and had been given the bank details face-to-face, despite these things not being correct either.

So even if Revolut had asked more open-ended or more probing questions to establish the circumstances surrounding the payment here, I think Miss R would likely not have given it accurate information about the purpose of the payment or the circumstances surrounding it – as happened with the questions she was asked. And so I don't think Revolut would have had significant concerns following its questions and I don't think any warning I would have expected it to show following those questions would have stopped Miss R from making the payments or losing the money she did.

I appreciate that Miss R has been the victim of a cruel scam and that my decision will come as a disappointment to her. She has lost a significant amount of money and I sympathise with the position she has found herself in. But I can only look at Revolut's responsibilities and, for the reasons I've set out above, I don't think anything I would reasonably have expected Revolut to have done would have prevented the loss she suffered. And so I don't think it would be fair to require Revolut to refund the money Miss R has lost.

We also expect firms to take reasonable steps to recover the money their customers have lost, once they are made aware of a scam. But, based on what I've seen here, it appears the money was removed from the account it was sent to before Miss R made Revolut aware of the scam. So I don't think anything I would reasonably have expected Revolut to have done would have led to any of the money Miss R lost being recovered."

I said I'd consider any further evidence and arguments, provided they were received by the deadline given.

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.

Revolut didn't respond to the provisional decision. Miss R responded with a number of points, which I will address below.

Miss R argued that Revolut failed to intervene effectively, and that the assertion that she might not have answered further questions truthfully was theoretical and didn't take into account the manipulative tactics of the scammer and the extreme duress she was put under.

But I think I must consider whether any action I would have expected Revolut to take would have prevented the loss Miss R suffered, as I don't think it would be fair to hold Revolut responsible for a loss it could not have prevented. Any consideration of this must be hypothetical if Revolut did not take the action expected. And, where the evidence is unclear or inconclusive, I must make a decision on what I think is likely to have happened – based on the evidence I do have.

As I set out in the provisional decision, Miss R was asked questions by Revolut about the purpose and circumstances of the first payment but didn't answer those questions accurately. I appreciate that Miss R only did this because the scammer pressured and coerced her to do so. But, regardless of why she did so, she didn't answer the questions Revolut asked accurately. So I think it's likely that she also wouldn't have answered any further questions Revolut asked accurately either – as it's likely the scammer would have continued to encourage her to mislead Revolut and she would have continued to follow their instructions.

And so I still don't think any questions I would reasonably have expected Revolut to ask, or any warning I would reasonably have expected Revolut to show Miss R following those questions, would have impacted her decision to continue making the payments or stopped her losing the money she did.

Miss R also mentioned a number of case studies from our website where victims of scams were refunded. But we look at each case individually, based on its own circumstances, so one consumer being refunded in one set of circumstances does not mean that another consumer will be refunded in other circumstances. And I've explained above why I don't think it would be fair to require Revolut to refund Miss R in the circumstances of this case.

Miss R also highlighted the significant impact this scam has had on both her finances and her health. And I sympathise with the position she has found herself in and don't intend to underestimate or diminish the impact this has all had on her. But the main perpetrators of what happened to her here are the scammers themselves, not Revolut. And as I've explained, I don't think anything I would reasonably have expected Revolut to have done would have prevented the loss she suffered. So I don't think it would be fair to hold Revolut responsible for the impact of a scam which was, ultimately, the work of scammers.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 31 October 2024.

Alan Millward
Ombudsman