

The complaint

Mrs W, via a representative, has complained that Revolut Ltd (“Revolut”) failed to refund the money she lost as part of an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mrs W says that she was looking to make an investment in order to get a better return on her savings. She came across a company that purported to be a crypto investment firm that I will call B.

Mrs W then made over 50 transactions totalling over £850,000 to crypto exchanges between October 2021 and October 2022. My understanding is that the funds were converted into crypto and were then sent to B. These transactions were a mixture of card payments and transfers. The funds came into her Revolut account from two other current accounts that Mrs W held with other providers. I will call these other providers C and D.

After some time, Mrs W realised she had been scammed. Mrs W asked Revolut to refund these payments, as she believes Revolut should have done more to prevent her from being scammed in the first place. Revolut did not agree with this.

One of our investigators looked into this matter and he thought that, given the answers Mrs W gave during calls with C and D, any intervention from Revolut would not have stopped the scam. He therefore did not uphold this complaint.

Mrs W did not agree with this and therefore her complaint has been passed to me to issue a decision.

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 agree with the conclusions reached by the investigator for the following reasons.

In deciding what’s fair and reasonable, I am required to take into account relevant law and regulations, regulators’ rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, on what I consider is more likely to have (or would have) happened, in light of the available evidence and the wider circumstances.

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. This should be in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer’s account.

However, taking into account relevant law, regulatory 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 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); and
- 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.

Revolut did provide Mrs W with general warnings about the transfers, for each new beneficiary. These warnings were limited essentially to asking Mrs W to check the details of the payments. It did though provide a more detailed warning in relation to two transfers. These warnings were tailored to the payment reasons that Mrs W selected for these payments - which were payments for ‘goods and services’ and moving funds ‘to a safe account’ respectively. I don’t think that these warnings were enough and I think that Revolut should have intervened more than it did. I think an appropriate intervention during the first transaction would have been a general warning and an appropriate intervention on payment 2 or 3 would have been human intervention given the size of the transactions in question.

I don’t think that a written warning would have prevented Mrs W from sending the funds as she was told about common features of scams during her calls with C and D.

I also don’t think that a human intervention would have stopped the scam for the following reasons.

I have listened to the calls between Mrs W and C and D, when they intervened as part of the scam. It is clear from the tone of Mrs W’s conversations with them that she was intent on making the payments and she completely believed what she was doing was legitimate.

It is also clear that Mrs W was intentionally providing answers that were misleading. I am not sure if this was at the prompting of the scammer, as I have been provided with very limited correspondence between her and the scammer, despite the scam going on for over a year. The other alternative is that Mrs W was worried that if she gave the correct answers to the questions being asked, the payments would be blocked. Either way, the answers that Mrs W gave essentially stopped C and D from giving an appropriate warning or uncovering the scam. And I think this would have likely been the same with Revolut, had it carried out a similar intervention.

For example, when sending funds directly to the crypto exchange from D, Mrs W said when questioned, that this was entirely her own choice. She said there was no third party involved and she was investing after doing her own research. She further implied that she was only putting money in the crypto exchange, rather than sending it on anywhere else. And Mrs W gave the impression that she had researched that particular crypto exchange and had concluded that it was safe.

Once she was unable to continue to send payments to the crypto exchange from C and D, it seems that Mrs W was so intent on making the payments, that she circumvented the blocks C and D had imposed by sending the money to Revolut instead. However, when Mrs W was questioned by C and D why she was making these payments to Revolut, she again does not say that it was part of an investment. Instead, Mrs W gave incorrect information and said that she likes to have funds in different places and that nobody had asked her to make the payments.

So, had Revolut intervened more than it did and asked more probing questions, I think its very likely Mrs W would have given similar answers to Revolut, that she gave to C and D – answers which were clearly designed to allay any suspicions that the payments could be linked to a scam. Also, I think that had Revolut stopped the payments completely, I think Mrs W likely would have sent the payments via other means – given how under the spell of the scammers she was. This is demonstrated to me, by Mrs W sending funds to the crypto exchange via Revolut, after she ran into difficulties sending funds to the crypto exchanges directly from C and D.

Taking everything into consideration, I think that Revolut should have intervened more than it did. But even if it had intervened further, I don't think the scam would have been stopped.

I've also thought about whether Revolut could have done more to recover the funds after Mrs W reported the fraud.

Revolut are under no obligation to refund the money under the Contingent Reimbursement Model (CRM) Code. This is because Revolut are not signatories of the code. I also don't think that the funds could have been recovered by a chargeback, as the money was used to purchase crypto which she duly received. It was only when she transferred the crypto to the scammers did the loss occur. So I don't think that Revolut could have recovered the funds via other means.

I appreciate this will likely come as a disappointment to Mrs W, and I'm sorry to hear she has been the victim of a cruel scam. However, whilst I have a great deal of sympathy for the situation that Mrs W found herself in, I'm not persuaded that Revolut can fairly or reasonably be held liable for her 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 Mrs W to accept or reject my decision before 3 January 2025.

Charlie Newton
Ombudsman