

The complaint

Mr L complains Revolut Ltd registered a fraud marker at Cifas, the national fraud database. He doesn't think it's done so fairly.

What happened

A summary of what happened is below.

Mr L held an account with Revolut. On 5 August 2023 it received a credit of £400 from a third party through a bank transfer. Funds were then immediately removed through a card payment. The payment into the account was identified as fraudulent because the bank from which the funds had come, notified Revolut its customer had been the victim of a fraud and scam.

Revolut blocked the account and after a review issued a notice to close it and loaded a misuse of facility marker at Cifas

Mr L contacted Revolut, after finding out about the marker when he had trouble opening a bank account. He said he'd not done anything to cause this and had been the victim himself. Revolut said it had recorded the marker in line with its internal policies and regulatory obligations and wouldn't remove it.

Mr L didn't think this was fair. He referred his complaint to us. In doing so, he said:

- When he was sixteen, he befriended someone through another friend.
- He was coerced and bullied into giving his account details and account security information to that person who remained anonymous.
- Not long after that, he found out that another bank had recorded a Cifas marker against him in 2021, which he'd tried to get removed but couldn't.
- He believed that was to do with the friend as he had his account information.
- A couple of years later Revolut had also taken similar action.
- He believed the Revolut marker must be as a result of the same person.
- Revolut had never contacted him, so he could explain what had happened.

One of our investigators reviewed matters. She acknowledged what Mr L had said but didn't uphold his complaint. She couldn't see how the third party could have utilised the funds with Mr L's card as they didn't have it. He'd also been unsure if he'd given his Revolut details when he'd given account information in 2021. And she noted Mr L had removed over £3,000 out of his account, on the same day as the fraudulent transactions and she would have expected him to notice the payments and contacted Revolut if he didn't genuinely know anything about them.

Mr L disagreed. He said he hadn't ruled out giving his Revolut details – all of the passwords and IDs were the same across his accounts. He'd since found out that it's possible to see card details on the banking app. So, it was plausible that's where the person had got them from. He hadn't noticed all the transactions on his account but that didn't make him involved.

Our investigator didn't change their mind, so the case has been escalated to me as the second and final stage in our process.

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'm sorry to disappoint Mr L but I'm not upholding his complaint. I will focus on what I consider the key points.

The marker that Revolut has filed is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, it's not required to prove beyond reasonable doubt that Mr L is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance says, there must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted and the evidence must be clear, relevant, and rigorous.

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Mr L's account, whether they are retained or pass through the account.

Secondly, the bank will need to have strong evidence to show that Mr L was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include allowing someone else to use their account to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity. To meet the standard of proof required to register a fraud marker, the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account to understand their level of knowledge and intention.

So, I need to decide whether I think Revolut has enough evidence to show fraudulent funds entered Mr L's account and he was complicit. And I'm satisfied it has. I'll explain why:

- I've seen evidence from Revolut that it received a report from a different third-party bank saying that funds which entered Mr L's account were as a result of a fraud. He doesn't dispute this.
- I've considered what Mr L has said about being coerced and bullied into giving someone his account and security information. But I don't find this persuasive. Because he's also said he'd had a similar issue on another account with another bank earlier, which had serious consequences. However, he then didn't take any action to secure this account. If this is genuinely what had happened, I would have expected him to do that.
- I note what he's said about what happened but there's no tangible evidence of him sharing his information within the context of what he says happened.
- If someone had access to Mr L's account through the information he'd provided and he was a victim, I'm not persuaded they would have left over £3,000 in the account. Like the investigator explained, these actions aren't consistent with those of a fraudster or if they are, I don't believe this was done without Mr L's knowledge. So, I believe he had knowledge of what was going on and was therefore a witting participant.

- I can't see Revolut requested information at the time but Mr L subsequently asked it to look into things. Having done so, it has declined to remove it. Having weighed everything, I accept Mr L may not have fully appreciated that the activity on his account could result in a marker at Cifas and I'm sorry about the impact this is having. But ultimately, the marker that's been loaded relates to a misuse of an account facility which is exactly what's happened here. Looking at the evidence, I think Revolut had enough to justify recording it. It follows, I'm not going to require Revolut to do anything to resolve this complaint.

My final decision

My final decision is, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 26 November 2024.

Sarita Taylor
Ombudsman