

The complaint

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

What happened

I issued my provisional decision on this complaint, explaining why I didn't intend to uphold it. I invited both parties to let me have any further information before I re-considered the matter. A copy of my provisional decision is below.

Copy of provisional decision

What happened

Mr C held an account with Revolut. On 9 and 10 January 2024 it received two payments for £210 and £520 respectively by way of bank transfers. The funds from the first payment were utilised on 9 January. Shortly afterwards, both payments into the account were identified as fraudulent because the banks from where they had come notified Revolut that its customers had been the victim of a fraud and scam.

Revolut restricted the account and contacted Mr C by email to tell it that's what it had done. It also sent him messages on the app. It said it needed him to contact it about the payments. Mr C says he didn't notice the emails immediately.

However, on 11 January he contacted Revolut via its chat facility to say he couldn't use his account and wanted to find out why. Revolut told Mr C that it had restricted the account, and it may take a few days for it to complete its checks. On 25 January, Mr C reverted to Revolut on the chat. He told it that he had started a web design business and he had started taking payments into the account.

Following a review, Revolut issued a notice to close the account and loaded a misuse of facility marker at Cifas.

Mr C contacted Revolut to complain, after finding out about the marker when one of his bank accounts was closed. He said he'd not done anything to cause this. Revolut said it had recorded the marker in line with its internal policies and regulatory obligations and declined to remove it.

Mr C didn't think this was fair, so he referred his complaint to us, and he also contacted Cifas. In doing so, he said:

- He didn't expect to get any money in that account as he typically used the account as a separate account to send funds to the mother of his child and nothing else. So, he was a bit surprised to see money come into it from two people he didn't know.

- He was initially unaware of any fraudulent funds entering his account. It was only upon looking back at the emails that he realised there was a problem.

- He didn't feel Revolut had done a proper investigation before applying the marker.
- He'd noticed different mobile devices not belonging to him had been used to access his account in the period leading up to the funds being paid in. He believed this was suspicious and said this wasn't connected to him.
- The marker had a detrimental impact on his day-to-day life, and he wanted it removed.

One of our Investigators reviewed matters. She acknowledged what Mr C had said but didn't think Revolut had treated him unfairly given the evidence it held. She recognised that Mr C had told Revolut that the payments were in relation to his web design business, but this wasn't something he'd mentioned to her. She considered this odd or if this had been true, that he'd have been able to provide supporting evidence, such as, invoices for the payments but there wasn't anything tangible. She went on to note Mr C had also suggested that his account could have been compromised by someone (who he was no longer in contact with), as he said he had accessed the account using a friend's device. The investigator acknowledged whilst his friend may have been able to save the log in details, it didn't explain why they wouldn't have withdrawn the funds and instead left them in the account for Mr C's benefit.

Following the Investigator's assessment, Mr C provided further information, which amongst other things, included information to show that he'd owed a web design business at the relevant time. He added that he'd assumed (incorrectly) that the payments were in relation to that, and he should have scrutinised matters more closely at the time. But this didn't mean there was dishonest intent. He said that had he been dishonest, the funds would have been removed immediately. He didn't believe Revolut had met the bar to record or maintain the fraud marker and he provided examples of previous decisions we'd made and some details from Action Fraud about how fraudsters can leave funds in an account.

Mr C didn't think his evidence had been given enough credence. When a consensus couldn't be reached on the outcome, the complaint was referred 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.

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 C 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 business must first be able to show that fraudulent funds have entered Mr C's account, whether they are retained or pass through the account. Secondly, the business will need to have strong evidence to show that Mr C 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 business 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 C'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 reports from two different third-party banks saying that funds which entered Mr C's account were as a result of a fraud. He doesn't dispute this either.
- Contrary to what's been said, some funds were removed from the account. £210 was removed on 9 January. I asked Revolut for the details of how that was done as the statements show this was a card payment. Looking at the records Revolut has provided, this is the card that was issued to Mr C. In the circumstances, I'm satisfied Mr C spent the funds or this was done with his permission as there weren't any other cards on the account or reports of it being lost or stolen.
- I don't doubt Mr C had a web design business, but his testimony hasn't been consistent. When contacting Revolut about the payments and activity, he said, "...I have started a web design business and I wanted to keep the funds separate from my main account...". He provided his company details. But in his complaint form to us, he said, he didn't expect to get any money into the account as he used it as a separate account to send funds to the mother of his child and "nothing else". Both things show Mr C appears to have had a distinct understanding of what the account was for but both explanations are clearly different and there's nothing to suggest he was genuinely mistaken when providing this information. In fact, he's been very specific.
- If the account was purely for sending funds to a family member, then I don't know why he wouldn't have told Revolut that or why he wouldn't have mentioned his business when providing his initial submissions to us. Mr C says he made assumptions, didn't scrutinise things and didn't appreciate the seriousness of the queries at the time, but I don't find what he's said about this persuasive. I've seen Revolut's messages to Mr C in the app and they were clear that this was a serious matter.

Mr C says he hadn't had information from Revolut following a data subject access request. He may wish to take that up with the Information Commissioner's Office but weighing everything up, I'm satisfied Revolut had enough to justify recording the marker at Cifas. So, I don't find it treated him unfairly. It follows that I'm not going to require it to remove the marker.

For completeness, I have also found Revolut didn't treat Mr C unfairly when it closed his account, given the account terms and conditions and looking at the circumstances that applied in his case.

My provisional decision

My provisional decision is that I don't intend to uphold this complaint.

Responses

Mr C responded to say that he wanted me to reconsider my provisional decision, taking account of his continuous efforts to dispute the payments and his difficulties in recalling

events without access to all the data from Revolut. He raised a number of questions and highlighted some of the following points:

- He maintained the decision to load the fraud marker had been done so without sufficient evidence.
- Two payments had been flagged as fraudulent but hadn't been returned by Revolut. This called into question Revolut's handling of fraud related transactions.
- He's asked Revolut to provide all data in relation to the payments in and out of his account, but it hadn't.
- As soon as he'd been notified his account would be closed, he'd disputed the payments.
- The only time he'd withdrawn funds was when Revolut had told him he could have the closing balance.
- He'd provided log in details from different devices and expected Revolut to investigate. But it hadn't looked into this.
- He hadn't mentioned his web design business because of a difficulty in recalling events. But as soon as this had been referenced, he'd provided relevant documentation in support.
- He had understood the bank's review could lead to the closure of his account, but he didn't appreciate the consequences of a Cifas loading. Had he, he could have taken professional advice to defend himself. However, a lack of transparency had left him unprepared for what has followed.
- The whole process has been an eye opener and he hoped that I could appreciate the human side of this when making my decision.

Revolut didn't have anything further to add.

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 reviewed the response but having done so, I will be adopting my provisional conclusions as part of this final decision.

Mr C has provided an explanation for why he responded in the way he did. He believes information has been kept from him and a lot of time has passed. I've thought carefully about what he's said but I'm satisfied Revolut gave Mr C appropriate information. For example, in the chat on 12 January, it said that it was contacting him urgently about a credit. It provided the date the funds had come in, the amount, the name of the sender and a reference. It asked Mr C for information about his relationship with the payer, the purpose of the payment and requested any other evidence he may have. I'm not sure what other information Mr C expected to get, in order to answer questions about this. I think a name, date and amount was enough for him to explain what he did or didn't know and provide supporting evidence.

Mr C engaged with Revolut's chat as he messaged it on 16 January. He then responded to the message on 25 January, to say the funds were in relation to his web design business and he provided his website details. Whilst he had supporting evidence that he had a web design business, there wasn't tangible evidence that the payment he was questioned about was something he had been expecting from a client.

Mr C told us that the account was only for payments to family and says the inconsistency in the two responses are as a result of him having difficulty recalling things, due to the passage of time. But concerns over payments into an account, resulting in a restriction were significant matters and I'm not persuaded this is something he could have had difficulty

remembering.

Mr C has said he didn't withdraw any of the funds, except ones Revolut told him he could, when closing the account. However, the available evidence shows the bank returned one of the fraudulent payments (for £520) to the sending bank and the other payment for £210 couldn't be returned, as that had already been utilised (as I set out in the provisional decision). This was prior to Revolut being notified of a fraud and the account being restricted so it couldn't have stopped that. In my provisional decision I explained that this was done by means of card payment and there was nothing to suggest Mr C's card had been lost or stolen, which might explain how an unknown party could have done this. I've examined his responses and Mr C hasn't provided any evidence that demonstrates that the information is wrong.

I'm really sorry to hear about the impact the marker is having. And it's difficult not to appreciate the human side of things, but I'm afraid this isn't enough for me to require the marker be removed. Having re-examined the case, I'm satisfied Revolut had enough information to file the marker at Cifas. It follows that I won't be requiring its removal.

This now completes our review of the complaint.

My final decision

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 C to accept or reject my decision before 25 February 2025.

Sarita Taylor
Ombudsman