

## **The complaint**

Mr M complains that Revolut Ltd won't refund the money he lost to a scam.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them all again here. Instead, I'll summarise the key points, and focus on giving reasons for my decision.

Around May 2022, Mr M was approached by a scammer claiming to offer a cryptocurrency investment opportunity. On the scammer's instruction, Mr M made payments from his Revolut account to two cryptocurrency wallets he was told to set up. From there, the funds were moved on to the supposed trading platform.

Mr M subsequently realised it was a scam as he couldn't withdraw any funds, and the 'advisor' stopped answering his calls. Supported by a professional representative, he complained to Revolut that it had failed to do enough to protect him from the scam. Revolut didn't agree it was liable for his loss.

Unhappy with this response, Mr M referred the matter to our service. Our investigator didn't uphold the complaint. She didn't think Revolut had cause to suspect Mr M was at risk from fraud at the time. Nor did she think it could have recovered the payments.

This case has been passed to me as Mr M has appealed the investigator's view. In summary, he says Revolut should have identified the risk as the payments looked suspicious. And it should have been aware of these types of cryptocurrency scams, which often involve funds being sent via cryptocurrency wallets.

## **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 these reasons:

- In line with the Payment Services Regulations 2017, Revolut is expected to execute authorised payment instructions without undue delay. It's not in dispute that Mr M was scammed. But nor is it in dispute that he authorised the payments. So the starting position is that he is liable for them.
- However, there are circumstances when it might be appropriate for Revolut, as an electronic money institute (EMI), to identify a fraud risk and to therefore take additional steps before processing a payment. Such as when the payment is significantly unusual or uncharacteristic when compared to the normal use of the account.

- I do appreciate the point raised by Mr M that the scam payments – ranging from £750 to £3,000 – were higher than some of his usual account use. But I do not consider them so significantly high, or otherwise unusual, that Revolut ought to have been concerned about fraud.
- There is a balance to be struck between identifying payments that could potentially be fraudulent – and then responding appropriately to any concerns – and ensuring minimal disruption to legitimate payments. Here, I'm conscious there were a few cryptocurrency-related transactions on the account in the months leading up to the scam. Although for smaller amount, they made the merchants paid, and the nature of the scam payments, appear less suspicious.
- Revolut has a duty of care to its customers. And at the time of these payments I would expect it to be aware of, and monitoring for, the type of scam Mr M fell victim to. The pattern of payments being made to a cryptocurrency wallet and then being lost to a scam was well-established. But I'm also mindful that Revolut is an EMI, not a bank. I think that has a bearing on what level of obligation it has to intervene.
- Having carefully considered the circumstances, I'm not persuaded it's fair to hold Revolut at fault for not intervening here. I do not think the payments looked so concerning that it ought to have realised Mr M was at risk from fraud solely based on the account activity. The higher value payments came a few days he had already paid £750 to a cryptocurrency wallet. So it didn't appear Mr M was being put under urgent pressure, as he had time to consider what to do in between the payments.
- While Mr M has raised that English isn't his first language, I don't think that has a bearing here on whether, based on the payment activity, Revolut ought to have been concerned about fraud.
- I'd also point out that, while reference has been made to the Lending Standards Board's Contingent Reimbursement Model (CRM) code, Revolut is not a signatory. Furthermore, the code doesn't apply to card payments, which these were. Nor does it apply to me-to-me payments – and the payments went to wallets in Mr M's name. So the CRM code isn't relevant to this complaint.
- The payments were made by debit card, so are covered by the chargeback scheme. This is set, and can be ultimately arbitrated by, the card scheme provider – to settle disputes between consumers and merchants. As the scheme is voluntary, Revolut is not obliged to raise a chargeback claim. But we would consider it good practice to do so if, in line with the scheme rules, the claim was likely to succeed.
- A chargeback claim can only be considered against the merchant paid directly. Here, the funds were sent to legitimate cryptocurrency merchants, who provided the expected service by loading the funds in line with the payment requests. It is the scammer, who the funds were subsequently transferred on to, who breached Mr M's expectations. As such, I do not think chargeback claims for these payments would have succeeded. And so I don't think it was wrong or unfair that Revolut didn't pursue these claims further.
- I appreciate this will be disappointing for Mr M, who has been the victim of a cruel and sophisticated scam. But I do not think his loss is attributable to an error by Revolut. And so I do not consider it fair to direct Revolut to refund Mr M, or otherwise compensate him in relation to this complaint.

**My final decision**

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 October 2023.

Rachel Loughlin  
**Ombudsman**