

The complaint

Mr W complains that Revolut Ltd didn't do enough to protect him from the financial harm caused by an investment scam, or to help him recover the money once he'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

On 8 March 2023, Mr W came across an advert on social media, which was endorsed by a well-known celebrity. The advert recommended an investment company I'll refer to as "P" and stated he could trade with as little as \$250.

Mr W decided to go ahead and transferred £219 from his primary bank account. He then received a pop-up message on the site explaining that he'd be contacted by a representative from P and asked to complete an online form.

He did some research and couldn't find anything negative about S in advance of the call. The representative, who I'll refer to as "the scammer" said Mr W could trade on his own or he would work on his behalf in return for a small fee. He told him he'd need to open a trading account with S and an account with a cryptocurrency merchant, which would require him to provide ID and proof of address. He was then emailed a username and a temporary password and told to create his own secure password.

The scammer told Mr W to download AnyDesk remote access software so he could help him to navigate the trading platform, show him how to make withdrawals and move funds around for different cryptocurrency investments. He asked him to first purchase cryptocurrency and then load it onto an online wallet.

Mr W made further transactions from his primary bank account until the last payment was questioned. He was then instructed to create an account with Revolut as it allowed payments without questioning. He opened the Revolut account on 20 March 2023 and between 20 March 2023 and 21 March 2023, he made three transfers to G totalling £21,000, having topped up the account with funds from his primary bank account.

Mr W watched his investment grow on the trading platform, but when he asked to make a withdrawal, he was told he needed to pay fees to prove ownership of funds. He made two further payments on 9 April 2023 and 12 April 2023 for £9,800 and £5,338.41 and he realised he been scammed when he was told to pay more fees but he refused and was subsequently unable to contact the scammer.

He reported the scam to Revolut arguing it should have flagged the payments because the account was newly opened and he had deposited four payments into the account before distributing the funds to a new payee. But it refused to refund any of the money he'd lost explaining it had tried to recover the funds, but no funds remained.

It said its systems detected that the first payment was to a new beneficiary and it displayed the following message in the app: *“Do you know and trust this payee? If you’re unsure, don’t pay them, as we may not be able to help you get your money back”*, which Mr W acknowledged before continuing with the transfer. It explained the transfer was put on hold and Mr W was shown a message about the purpose of the payment, followed by educational screens regarding the type of potential scam. It argued the warnings were sufficient and it wasn’t liable to refund the payments.

Mr W complained to this service with the assistance of a representative who said Revolut had failed to raise a chargeback dispute. They also said it ought to have intervened because Mr W made four payments to a new payee linked to cryptocurrency and there were obvious signs of fraud including a sudden increase in spending, transfers to other accounts, payments of large and unusual amounts to new payees, multiple payments made to the same payee on the same days, and large amounts of money coming into the account before being quickly transferred out.

They said it should have asked Mr W why he was making the payment, if he had a broker, if he’d done any research, if he’d checked the Financial Conduct Authority (“FCA”) website, if he’d downloaded AnyDesk, whether he’d been predicted unrealistic returns, whether he was being pressured to make the payments, whether he’d been given a script to read from or been coached on what to tell the bank and whether he’d responded to any calls or adverts about investing.

They argued Mr W hadn’t been coached to lie and so he’d have explained that he was being advised by a broker and Revolut would have realised the investment had the hallmarks of a scam and warned him against making any further payments.

Revolut further argued the fraudulent activity didn’t take place on its platform as it was used as an intermediary to receive funds from Mr W’s main bank account and then transfer them on to legitimate accounts with a cryptocurrency platform, from where they were subsequently lost. So the fraudulent activity didn’t occur via Revolut.

It said when Mr W made the first payment of £5,000 on 20 March 2023, a warning about the scam risk was displayed prominently at the top of the page. He was also warned about the risk and informed he might not be able to recover the funds if it later turned out that the beneficiary was fraudulent. A second similar alert was triggered on the same day for the second transaction when Mr W tried to pay a further £8,000 to the same payee and when he chose to proceed with the payment, the account was temporarily restricted and he was contacted via the in-app chat and asked a series of questions. Mr W said he hadn’t downloaded AnyDesk and he was making the payments out of his own will. He was then given a tailored warning before he proceeded with the payment.

For both alerts, Mr W was asked about the purpose of the payment and each time he selected “transfer to a safe account”. He was then shown a further, more granular set of warning messages which warned him explicitly that there was a high probability that the payment was a scam.

Revolut said the account was newly created, so there was no historical transaction behaviour profile to determine normal activity. And the funds were transferred from Revolut to a cryptocurrency account in Mr W’s control. Further, he wasn’t rushed or coerced into making the payments as he made two card payments and four transfers in twenty three days. So the warnings it gave were proportionate.

It also said Mr W didn’t complete sufficient due diligence or question the returns he’d been promised arguing he should have checked whether the investment was legitimate before

transferring funds. Finally, it said it contacted the beneficiary institution on the 11 May 2023 but recovery was deemed as unsuccessful.

Our investigator didn't think the complaint should be upheld. He explained that when Mr W made the first payment, he selected the payment purpose 'Safe account' and he didn't think this intervention was proportionate because that ought to have put Revolut on notice that there was a high likelihood the payment was part of a scam.

However, he noted that Mr W then tried to pay £8,000 to the same payee later the same day, the payment was blocked and in the subsequent live chat he was asked about the nature of the payment and the purpose of his account. On this occasion he said was making the payment for an investment and that he was making the payments himself, so Revolut gave him a relevant and tailored scam warning and the payment was approved.

Based on the outcome of this interaction, our investigator didn't think it would have made any difference if Revolut had contacted Mr W before he made the first payment as its likely he'd have said the payment was for an investment and denied the involvement of a third party. He would then have been given the same tailored scam warning and the outcome would have been the same. So he didn't think Revolut had missed an opportunity to prevent Mr W's loss.

Finally, he was satisfied there was no prospect of a successful recovery because Mr W paid an account in his own name before moving the funds to the scammer.

Mr W has asked for the complaint to be reviewed by an Ombudsman. He's explained the calls occurred late in the evening and he was unsure of which options to choose because it was the first time he'd used the app. He's asked why Revolut isn't being made to refund the first payment as our investigator said it shouldn't have let the payment through. He's also said he would have listened to warnings from Revolut and that if it had dealt with his scam claim sooner it would have been able to recover the funds.

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've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr W has been the victim of a cruel scam. I know he feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

I'm satisfied Mr W 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, he is presumed liable for the loss in the first instance.

There's no dispute that this was a scam, but although Mr W didn't intend his money to go to scammers, he did authorise the disputed payments. Revolut is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

Revolut was an emoney/money remittance provider and at the time these events took place it wasn't subject to all of the same rules, regulations and best practice that applied to banks and building societies. But it was subject to the FCA's Principles for Businesses and BCOBS 2 and owed a duty of care to protect its customers against the risk of fraud and scams so far as reasonably possible.

I've thought about whether Revolut could have done more to prevent the scam from occurring altogether. Buying cryptocurrency is a legitimate activity and from the evidence I've seen, the payments were made to a genuine cryptocurrency exchange company. However, Revolut ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it did enough when Mr W tried to make the payments..

Mr W was shown a warning when he made the first payment on 20 March 2023 and as this was a newly opened account, he was paying an account in his own name and the payment was for £5,000 I think a written warning was proportionate to the risk. However, I agree with our investigator that Revolut ought to have questioned him about the fact he'd selected 'safe account' when he was asked to provide a payment purpose and that that its failure to do so was a missed opportunity to try and prevent the scam.

However, later the same day, Revolut contacted Mr W via its live chat facility to ask questions about the second payment. It asked him what the payment was for, whether he'd downloaded any screensharing applications, whether he'd been told to open the account and make an outbound transfer, whether he'd been told to move quickly because he was at risk of missing out on an investment opportunity, whether he'd been promised returns which seemed too good to be true, whether he'd done any research and whether he'd been encouraged to invest by someone he'd met online. Mr W said he was investing and that he'd spoken to other friends who'd used the platform . He also said he hadn't downloaded AnyDesk, he was making the payment of his own accord and he had full control of the platform.

Based on the information Revolut had, I'm satisfied the intervention was proportionate and that Mr W was asked relevant questions. I'm also satisfied that the answers he gave to the questions he was asked meant Revolut was prevented from identifying that he was being scammed and that in the circumstances there was nothing else it could have done to protect him. I'm also satisfied Mr W was given a tailored scam warning which relevant to the circumstances.

I've considered what would have happened if Revolut had questioned Mr W about the first payment and, based on what he said during the second interaction, I think it's more likely than not that he'd have said the same thing i.e. he was making the payment for an investment and that he was acting alone. He would then have been given the same tailored warning and based on the fact he went ahead with the second payment I think it's more likely than not that he'd have gone ahead with the first payment. Consequently, I agree with our investigator that even though Revolut didn't do enough when Mr W made the first payment, this didn't represent a missed opportunity to have prevented his loss.

Finally, I've considered whether Revolut should have intervened in any of the later payments and I don't think that was necessary. This is because, the payee was becoming established and payments three, four and five were a similar value to payments one and two. So, having already been given a scam warning in respect of payment to the same beneficiary, there would have been no reason to do so again unless there were any further fraud indicators, which there weren't.

Compensation

Mr W isn't entitled to any compensation or legal costs.

Recovery

I note Mr W feels Revolut could have recovered the funds if it had intervened sooner but I don't think there was a realistic prospect of a successful recovery because he paid an account in his own name and moved the funds onwards from there.

I'm sorry to hear Mr W has lost money and the effect this has had on him. But for the reasons I've explained, I don't think Revolut is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

For the reasons I've outlined above, my final decision is that I don't uphold this complain

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 April 2024.

Carolyn Bonnell
Ombudsman