

The complaint

Mr M complains that Revolut Ltd won't refund money he lost when he fell victim to an employment scam.

Mr M is being represented by solicitors in this complaint.

What happened

The detailed background to this complaint is well known to both parties. The facts about what happened aren't in dispute, so I'll focus on giving my reasons for my decision.

The complaint concerns several transactions totalling just over £5,800 which Mr M made over a period of nine days in June 2023. These debit card payments were made in connection with a job opportunity – clicking and submitting reservations to promote hotels – with a company “M1” who contacted him on an instant messaging service. Mr M subsequently discovered that he'd fallen victim to a scam.

Mr R has explained that the Revolut account was opened as part of the scam. He transferred the funds from his accounts with other providers to Revolut, before sending it on to a cryptocurrency exchange for conversion into cryptocurrency. Once converted, the cryptocurrency was sent to cryptocurrency wallets as instructed by M1.

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.

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, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to be good industry practice at the time, I consider it fair and reasonable in June 2023 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,
- 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 including in relation to card payments),

- 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.

Where there's no previous account history, as was the case here, what should reasonably strike Revolut as concerning for a first payment isn't down solely to the transaction amount involved. I haven't seen any other factors at play here such that, in my view, Revolut should have been concerned and ought to have questioned Mr M when he authorised the first disputed transaction of £50 on 20 June.

The second transaction, for £80 on 23 June, was declined. Revolut has said it didn't intervene at any point and didn't provide any warnings. But having reviewed the chat correspondence between Mr M and the scammer from the relevant time, I can see that he told the scammer Revolut had frozen his card as a security measure. And that he was able to unfreeze it before attempting the transaction again. So, it seems that the transaction in question was flagged as suspicious.

It is my understanding that at the time this transaction happened, where a transaction was flagged as suspicious, it was usual practice for Revolut to decline it and display a generic scam warning asking the customer to review the payment. If they wanted to go ahead, they could unfreeze their card and make a further transaction. Mr M hasn't referenced receiving a warning in his chat correspondence. But on balance, I consider it more likely than not that one was provided. Given the amount involved, I consider this response from Revolut to have been a proportionate step to the risk involved.

There were five transactions to the cryptocurrency exchange that day. The amounts ranged from £20 to £70. By deciding to unfreeze his card, Mr M had already reassured Revolut that he was happy to make payments to that merchant. So, I don't consider any further intervention was required that day.

The next day, 24 June, Mr M authorised ten transactions. Although they were spread throughout the day, arguably the increased frequency of transactions to a cryptocurrency exchange in a relatively short period ought to have given Revolut cause for concern. By June 2023, there had been widespread coverage in the media about increased losses to cryptocurrency investment scams.

I therefore think that Revolut ought to have recognised at some point during that day that the card transactions carried a heightened risk of financial harm from fraud. In the circumstances, and at that time, I consider that a proportionate response to that risk would have been for Revolut to have provided Mr M with a written warning about cryptocurrency investment scams tackling some of the typical features. But, had it done so, I'm not persuaded that it would have prevented Mr M's loss.

This is because Mr M wasn't sending payments in connection with an investment. He understood he was using the cryptocurrency platform to deposit funds into his account to spend with his 'employer' M1. So, I'm not satisfied that the kind of warning I would have expected at that time – setting out the typical hallmarks of cryptocurrency investment scams – would have resonated with Mr M.

Mr M's representatives have said they believe Mr M would have told Revolut what the purpose of the payment was had it asked him. And that the scam could have been stopped had Revolut provided appropriate warning after making enquiries about the payment purpose.

I've already explained why I consider the provision of a written warning specific to cryptocurrency investment scams to be a proportionate response in the circumstances of this case. But for completeness, even if I were to make a finding that Revolut should have made further enquiries such as the payment purpose, I'm not convinced that it would have led to a different outcome. I'll explain why.

The chat with the scammer shows Mr M was coached to lie on more than one occasion if any of the firms he was sending the funds from questioned him. Mr M didn't question this and responded by saying "ok".

Also, I've listened to a call Mr M had with one of his other account providers on 25 June, when a transaction to the same cryptocurrency exchange hadn't gone through from that account. This call is mentioned in the chat correspondence on the day, so I've no reason to believe that the transaction and the associated call weren't linked to the scam.

The agent asked Mr M what the transaction was for, and whether he was aware it related to cryptocurrency. Mr M wasn't honest with his answer. He said he was sending the funds to a family member who he owed money to. The agent told Mr M that cryptocurrency was targeted by fraudsters, and that crypto assets weren't regulated. But Mr M reassured the agent that the firm had no reason to be concerned and that his family member wanted to be paid that way.

In other words, Mr M lied on that occasion. So, based on the contemporaneous evidence in front of me, I'm more persuaded that it's likely Mr M would have done the same had Revolut questioned him. But to reiterate, I wouldn't have expected it to have made enquiries in the circumstances of what happened here.

In conclusion, I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which Mr M finds himself due to the scammer's actions, for the reasons given, it wouldn't be fair of me to hold Revolut responsible for his loss.

My final decision

For the reasons given, 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 M to accept or reject my decision before 24 July 2024.

Gagandeep Singh
Ombudsman