

The complaint

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

Mr P is being represented by solicitors in his complaint.

What happened

The detailed background to this complaint is well known to both parties and has been previously set out by the investigator in their assessment. So, I won't repeat everything again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns several transactions totalling just over £110,000 which Mr P sent from his Revolut account between December 2021 and June 2023. They were made in connection with an investment opportunity which Mr P was introduced to by someone he connected with on social media in November 2021. Mr P subsequently discovered that he had been scammed.

Mr P was required to make deposits into his 'investment account' in cryptocurrency. Under the instructions of the scammer, he set up an account with a cryptocurrency platform. Mr P transferred money to the cryptocurrency platform's account provider for conversion into cryptocurrency, before sending it on to the cryptocurrency wallets as instructed by the scammer (albeit at the time he thought he was depositing it into his investment account).

Initially, Mr P sent money from his account with a high street bank, "N". But when it blocked one of the transactions, Mr P transferred the funds into his Revolut account before sending them on to the cryptocurrency platform. On one occasion, he also transferred money in from an account held with another bank. Except for the last few transactions in 2023, which were made using his Revolut debit card, Mr P sent money from his account through bank transfer. To fund these transactions, Mr P took out several loans with N. He also borrowed money from a family member.

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'd like to start by thanking Mr P, his representative, and Revolut for their patience while awaiting an outcome from our service. I recognise the matter has been ongoing for some time.

It's not being disputed that Mr P was the victim of a scam. It's very unfortunate that he's lost a considerable sum of the money. But Revolut doesn't automatically become liable to reimburse his loss. 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, in accordance with the law, regulations and good industry practice, payment service providers, including EMIs, should be on the look-out for and protect customers against the risk of fraud and scams so far as is reasonably possible. If a payment service provider fails to act on information which ought reasonably to alert it to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.

I've looked at the operation of Mr P's Revolut account, which was opened a few months prior to the disputed transactions. Considering the activity on the account during that period, I agree with the investigator that the first disputed transaction – £5,000 on 9 December 2021 – ought to have flagged as unusual. The payment wasn't identifiably cryptocurrency related, as it went to another EMI which provides account to the crypto platform in question as well as other firms not all of which provide crypto services. In the circumstances, I consider a proportionate response would have been for Revolut to have provided a written warning that broadly covered typical scams that were prevalent at the time.

But I'm not persuaded that a written warning would have positively impacted Mr P's decision-making. Just hours prior to the transaction in question, Mr P had attempted to send money from his account with N, but it blocked it. System notes provided by N indicate that Mr P discussed the transaction with it over the phone. He wasn't happy to speak with N's *investment scam team*, and instead said he'd close his account. The notes suggest that N had concerns that Mr P was possibly falling victim to an investment scam, and I consider it likely that these concerns were shared with him, given the agent wanted to put him through to a team that specialised in such scams. But Mr P didn't want to engage in a discussion. Given this, on balance, I'm not persuaded that a written warning by Revolut would have led to him taking a different course of action.

Mr P's transactions through Revolut increased in frequency. While I recognise the payments went to the same payee, by the time he authorised the fifth transaction – £10,000 on 16 December 2021 – I consider Revolut ought to have recognised the sudden jump in the individual amount, as well as the overall increased activity on the account, carried a possible heightened risk of financial harm from fraud. In that instance, I would have expected the EMI to take additional steps in satisfying itself that all was above board. In my view, it could have made enquiries about the nature of the payment to establish if and what type of scam Mr P might have been falling victim to. We know it didn't intervene at that time. So, an opportunity was missed.

But that is not the end of the matter. Causation is a critical determinative factor. It isn't enough that a payment service provider failed to suitably intervene. To uphold a complaint, I'd also need to be satisfied that such an intervention would more likely than not have impacted the customer's decision not to go ahead with the transaction in question. In this case, I'm not convinced that an intervention along the lines I've described above would have led to Mr P not going ahead with that transaction.

A transfer from Mr P's account with N into his Revolut account on 10 December 2021 was flagged for fraud checks. Mr P was asked to phone the bank to discuss the transaction. I've listened to a recording of the relevant call. Mr P didn't answer N's questions truthfully. He was asked about the reason for making the transfer and Mr P said he wanted to send money abroad to his family. He explained he wanted to use his Revolut account because it was easy and free, and his family also had a Revolut account. Mr P also told N that no one else had been involved in the transaction. None of these facts were true. A further transfer on 15 December 2021 also triggered N's systems and Mr P gave the same reason for why he was transferring funds to his Revolut account.

I can't say for certain how Mr P would have responded to Revolut's warning. In such circumstances, I need to make my decision on the balance of probabilities. In other words, what I consider to be more likely than not Mr P's response based on the information that is available. What I have is contemporaneous evidence of Mr P misleading another business on two separate occasions when questioned over the phone. I acknowledge that N's questions and warnings weren't specific to cryptocurrency investment scams – after all the payments were going to Mr P's Revolut account. But his answers suggest he was willing to mislead his bank.

Also, the information I've seen shows that Mr P wasn't honest about the reason for borrowing money from N. It's not clear from his chat correspondence with the scammer but based on his answers it seems likely that Mr P was being coached on how to answer questions from his bank. I can see that he shared a text message from N with the scammer. So, had Revolut made enquiries at the time of the fifth transaction, I'm not convinced that Mr P would have responded honestly like his representatives have suggested.

The subsequent transfers were spread across a longer period. By that time, the earlier transactions had come to form part of the account spending pattern. So, they wouldn't have stood out as unusual to Revolut. I can see that the first card transaction to a cryptocurrency exchange in June 2023 was declined by Revolut, and it blocked Mr P's card. Given the amount involved, I consider checking that it was indeed Mr P who had made the transaction before letting him unblock his card was a proportionate response to the risk identified. We know Mr P unblocked his card and went on to make four card transactions before reporting the scam to Revolut.

What all this means is that in the circumstances of this case, I don't consider Revolut acted unfairly in executing the payment instructions it received from Mr P. It follows that I don't find it liable for his financial loss.

I've also thought about whether Revolut could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. For the card transactions, the recovery avenue would have been limited to raising a chargeback. But Mr P's payments didn't go to the scammer directly, they went to a cryptocurrency exchange. He wouldn't be able to make a successful chargeback claim in the circumstances because the merchant he paid did provide the service requested (i.e., conversion of fiat money into cryptocurrency).

For the transfers, Revolut could only request a recall of funds from the beneficiary account provider. But we know that once they were received into that account, Mr P converted the money into cryptocurrency before sending it to wallets as instructed by the scammer. So, there wouldn't have been any funds left to recover. And that is the response Revolut received when it attempted recovery, albeit with some delay.

In summary, I know that Mr P will be disappointed with this outcome. Not least because the matter has been ongoing for some time and the investigator had originally upheld the complaint. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which Mr P finds himself, 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 P to accept or reject my decision before 1 August 2024.

Gagandeep Singh
Ombudsman