

The complaint

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

Mr H is being represented by a claims management company in this 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 it again here. Instead, I'll focus on giving my reasons for my decision.

The complaint concerns two transactions – £1,000 and £13,000 – which Mr H made from his Revolut account in February and April 2023 respectively. They were made in connection with an investment opportunity which Mr H says turned out to be a scam.

Mr H has also explained that the Revolut account was opened as part of the scam. He took out a personal loan for £13,000 with a third party, which was used to fund the last disputed transaction.

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 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.

EMIs are set up with the purpose of sending and receiving money and the type of payments they're generally used for tends to be somewhat different to banks and building societies. Often, the payments will be for larger sums. 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 H when he authorised the first disputed transaction – a card payment – of £1,000. I acknowledge that Mr H was sending money to a cryptocurrency exchange. But that in and of itself doesn't mean that the transaction ought to have flagged as suspicious. Buying cryptocurrency is a legitimate exercise.

The next transaction – an international payment – of £13,000 went to an individual's account and was funded by two transfers Mr H had made into his Revolut account within the hour. We now know that Mr H had taken out a loan for that sum from a third-party lender, which was paid into his account with a high street bank before being transferred to Revolut in two transactions. Given the amount Mr H was sending, and the activity on his account at the time, I consider the transaction ought to have flagged as unusual on Revolut's systems. And it should have made enquiries before executing Mr H's authorised instructions.

Revolut says the transaction did flag as unusual and it did warn Mr H about the different types of prevalent scams. It adds that the transfer was automatically cancelled following the warning. I've reviewed Revolut's evidence, and I can't see that the transaction was cancelled as it has asserted. The system notes show that a review was undertaken, but the timestamp suggests this happened after the transaction had already been executed.

Regardless, I don't consider the provision of a general warning about different types of scams was a proportionate response here. In my view, Revolut ought to have enquired about the purpose of the transaction and then provided a warning specific to the transaction type. Its submission doesn't suggest that that is what happened here. So, an opportunity for a meaningful intervention was missed.

But that's not the end of the matter. Causation is a critical determinative factor in every fraud and scam case. 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 have positively impacted the customer's decision-making.

I can't say for certain how Mr H would have responded to Revolut's enquiry, given there's no evidence of that happening. 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 H's response based on the information that is available.

The difficulty I have here is that it's unclear how the scam unfolded. We've asked to see the full chat correspondence between Mr H and the third party who he says scammed him, but we've been advised it can't be retrieved. So, I haven't got contemporaneous evidence of the scammer's involvement at the time Mr H authorised the transaction in question. What I do have is Mr H's submission that he was following directions given to him by the third party, who he says was guiding him throughout the process and providing step by step

instructions. Mr H has also told us he followed the third party's advice in selecting 'home improvements' as the loan purpose.

The above information tells me that the third party had gained Mr H's trust. He followed instructions without questioning them. Under the circumstances, I'm not convinced that he would have taken a different course of action had Revolut questioned him about the international payment. I'm more persuaded that Mr H would have followed the third party's advice on how to answer any questions he was asked by Revolut. I also think it's more likely than not that any concerns Mr H might have had following Revolut's intervention would have been alleviated by the third party's reassurances. We know they were guiding Mr H throughout the payment journey.

I know Mr H's representative strongly believes that his actions at the time of the loan application are not reflective of what would have happened had Revolut questioned him. But having thought about it carefully, for the reasons given above on balance I'm more persuaded that Mr H – under instructions of the third party – would have reassured Revolut that everything was above board.

What 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 H. It follows that I don't find it liable for his financial loss.

In summary, I know that Mr H will be disappointed with this outcome. Not least because the matter has been ongoing for some time. I fully acknowledge that there's a considerable amount of money involved here. Despite my natural sympathy for the situation in which he 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 H to accept or reject my decision before 19 July 2024.

Gagandeep Singh
Ombudsman