

The complaint

Mr O complains that Revolut Ltd unfairly registered a marker about him at Cifas, the national fraud database and closed his account.

What happened

Mr O had an account with Revolut, which he opened in July 2022.

On 25 November 2022, a payment of £100 was made into Mr O's account, from an individual I will refer to as Mr V. On 26 November 2022, a payment of £300 was made into Mr O's account from an individual I will refer to as Mr A. Mr O transferred the funds into another account with a different bank in his name.

Following this on 28 November 2022, Revolut were notified by another bank that the payment from Mr V was fraudulent and that their customer had been the victim of a scam. Revolut blocked Mr O's account and decided it needed to look into how he was operating his account. The end result of the review was that Revolut decided they didn't want to provide banking facilities to Mr O anymore.

Mr O discovered that he wasn't able to access his account and contacted Revolut to try and find out if there was a problem. Revolut told Mr O that it had reviewed his account and then decided to close it. Mr O complained and asked Revolut to explain its actions. Revolut didn't give Mr O much information but agreed to review its decision.

Whilst it reviewed things, in December 2022, Revolut received a second fraud report from another bank that the payment from Mr A was fraudulent and that he had also been the victim of a scam. Revolut completed its review and maintained its position that it would be closing Mr O's account. It also decided to place a fraud maker against Mr O's name with Cifas. This was for misuse of a facility in relation to retaining fraudulent funds. Revolut also closed Mr O's account.

Mr O discovered the marker in February 2023, when he began having trouble opening other bank accounts and obtaining credit. Mr O submitted a data subject access request (DSAR) and found out that Revolut had recorded a Cifas marker against him. Mr O complained to Cifas and said Revolut hadn't spoken to him or carried out any sort of investigation before loading the marker. Cifas wrote to Revolut and asked them to provide everything it had relied on as part of its investigation that caused them to record the marker.

In response, Revolut said it should have handled things differently and hadn't spoken to Mr O about the activity on his account. So, it said it would remove the marker, which it did in April 2023.

Mr O complained to Revolut. He said Revolut should have asked him about his entitlement to the two payments and had closed his account unfairly. He explained that as a result of the marker he'd struggled to open bank accounts, so he said Revolut should reopen his account. In response, Revolut confirmed that it had removed the Cifas marker, and that Mr O's

account had been closed in April 2023.

Unhappy with this response Mr O brought his complaint to our service. He said Revolut treated him like a criminal despite him doing nothing wrong. He feels Revolut have racially profiled him and says the marker led to him losing out on numerous financial opportunities. And problems trying to open bank accounts. He explained that his mental health was impacted and traumatised by Revolut's actions. So, he said Revolut should reopen his account and pay him compensation.

An investigator looked into Mr O's complaint and asked Revolut and Mr O for some more information about what had happened. In response, Revolut accepted it didn't handle things well, and should have done things differently before recording a Cifas marker against Mr O. It offered £200 compensation for any trouble and upset this had caused Mr O.

Mr O told the investigator that since the marker has been removed, he has been able to open another bank account. And that Revolut should have questioned him before labelling him as a fraudster. He also said he wasn't happy to accept Revolut's offer.

After reviewing everything the investigator said that Revolut hadn't done anything wrong when it had closed Mr O's account. However, she said Revolut hadn't treated Mr O fairly when it applied the marker and recommended Revolut pay Mr O £400 compensation for the trouble and upset the marker had caused him.

Revolut agreed with what the investigator said. Mr O didn't. He said the amount of compensation isn't enough.

As no agreement could be reached the matter has come to me to decide.

Prior to issuing my decision I asked the investigator to go back to Mr O and clarify some things – in particular I asked Mr O to provide proof of his entitlement to the payments he received from Mr V and Mr A in November 2022. I also asked him to provide any emails, text messages, screenshots, or anything else to show why he'd received the payments.

In response, Mr O sent the investigator two screenshots of payment confirmations from Mr V and Mr A. The confirmation referenced the payments as rent, and deposit token payment. Mr O didn't provide any other information that explained why he'd received the payments.

After reviewing all the evidence and circumstances of this complaint I reached a different outcome to the investigator and issued a provisional decision in which I said the following:

Firstly, I should make it clear to Mr O that the Financial Ombudsman Service is an informal dispute resolution service acting as an alternative to the courts. We don't consider complaints in the same way as a criminal court might. It is not my role to prove exactly what happened. Where there is a dispute about what happened and the evidence is incomplete, inconclusive, or contradictory, we reach our conclusions on the basis of what we consider is most likely to have happened having considered the available evidence and wider circumstances.

I'll deal with Revolut's decision to block Mr O's account. Revolut has extensive legal and regulatory responsibilities they must meet when providing account services to customers. They can broadly be summarised as a responsibility to protect persons from financial harm, and to prevent and detect financial crime. It's Revolut's duty to reasonably ensure accounts are being used in the way they should and to protect the money which is held in them.

Fraud is a serious matter, and one way financial businesses and banks can help to tackle fraudulent payments is by restricting accounts when allegedly fraudulent payments are received into them. And that's what happened here. I should also add that Revolut is not required to prove beyond reasonable doubt that Mr O is guilty of a fraud of financial crime before it decided to block his account and carry out a review.

Having looked at all the evidence, I don't believe it was unreasonable in the circumstances for Revolut to block Mr O's account. Revolut has explained that this was its standard procedure, and I accept that it was. I'm satisfied that in doing so Revolut were complying with its legal and regulatory obligations. Doing so also enabled Revolut to consider how best to react to the information it had received from the sending banks about the money that had been paid into Mr O's account by Mr V and Mr A. So, whilst I accept, Revolut's actions caused Mr O inconvenience and upset when it decided to block his account, I can't say Revolut did anything wrong and treated him unfairly in doing so.

Following its review Revolut decided to close Mr O's account. Revolut have relied on the terms and conditions of Mr O's account in closing the account. The terms and conditions outline that Revolut can close a customer's account with two months' notice, and in certain circumstances they can close an account immediately. In this case, Revolut blocked Mr O's account, and then closed it. So, I consider Revolut closed Mr O's account immediately, since he wasn't able to use the account following the block.

For Revolut to act fairly here they needed to meet the criteria to apply their terms for immediate closure – and having looked at these terms and all the evidence I'm satisfied that Revolut did. So, it was entitled to close the account as it's already done and end its relationship with Mr O. This means I won't be asking Revolut to reopen Mr O's account.

I've next moved on to consider the loading of the Cifas marker against Mr O. Revolut have agreed to remove the marker following Mr O making a complaint and raising a DSAR with Cifas. The marker was removed in April 2023. Mr O says Revolut shouldn't have recorded a marker against his name and didn't speak to him about the fraudulent transactions.

The marker that Revolut filed with Cifas is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, they're not required to prove beyond reasonable doubt that Mr O is guilty of a fraud of financial crime, but they must show that there are grounds for more than mere suspicion or concern. Cifas says:

- *“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]*
- *The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Mr O's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity. There's also a requirement that Revolut should be giving the account holder an opportunity to explain what was going on.

It's not in dispute that Revolut didn't provide Mr O an opportunity to provide information about his entitlement to the money he'd received from Mr V and Mr A. Revolut accepts it

should have handled things differently and spoken to Mr O at the time, prior to recording a marker with Cifas against Mr O. With this in mind, I asked Mr O to provide any information he had about his entitlement to the money he received from Mr A and Mr V.

In response, Mr O provided two screenshots of bank payment confirmations from Mr V and Mr A – he didn't provide anything that showed why he had received the payments, or any correspondence between him and the two parties who sent him money to explain his relationship with Mr V and Mr A. Based on Mr O's response, I think if Revolut had asked Mr O about the payments it's likely that he would have provided the same information to them.

So, I need to consider whether based on all the information including the evidence Mr O has submitted whether Revolut had sufficient evidence to meet the standard of proof and load a marker for misuse of facility with Cifas. Having looked at all the information provided, I'm satisfied they did, and I say this because:

- I've seen the evidence from Revolut that confirms they were notified by two other banks that Mr O had received payments of £100 and £300 as the result of a scam.*
- Mr O hasn't explained why he received the payments from Mr V and Mr A. The evidence he has supplied simply shows that the payments were sent to him – which isn't in dispute. I've considered this evidence, but I'm not persuaded that this shows Mr O was entitled to the money.*
- I'm also aware of other complaints Mr O has with this service which involve instances of Mr O receiving numerous payments from several different individuals which have been reported as scams. This suggests to me that Mr O was potentially regularly involved in fraudulent behaviour.*
- I've considered what Mr O says about the impact the marker has had on him. And kept in mind that the marker has now been removed. But in my view, based on all the evidence, I think it's most likely he allowed his Revolut account to be used for receiving fraudulent funds. So, I'm not convinced Mr O is an innocent party. I think the evidence shows that Mr O was involved in a misuse of facility.*

In summary, the requirements around banks lodging markers at Cifas include there being sufficient evidence that the customer was aware and involved in what was going on. When I weigh everything up, I think this most likely exists here from reviewing all of the evidence.

Having looked at all the evidence I'm satisfied this shows there were reasonable grounds to suspect that fraud had been committed. And from evidence I've seen that Mr O was likely complicit in this. So, even though Revolut didn't contact Mr O (as it should have) the evidence (although we might expect less as they didn't contact him at the time) Mr O's given isn't sufficient to show he wasn't complicit in the fraud/ was entitled the funds.

So, I'm therefore satisfied that Revolut was justified in placing a Cifas marker against Mr O's name. On this basis I don't think it would be fair or reasonable to ask Revolut to pay Mr O compensation. And I'm currently thinking of not asking Revolut to do anything further here.

Revolut accepted my provisional decision.

Mr O disagreed. In summary he said:

- He was surprised he still had information from 2022 to provide, and does it mean he would have been fairly judged guilty if he has nothing to provide, when Revolut failed to investigate what happened properly.*
- He has another account which he uses to trade cryptocurrency. There have been*

instances where people raise false fraud claims with their banks after successful cryptocurrency transactions. And it's possible that this is what Mr V and Mr A did.

- He maintains Revolut racially profiled him because he had a smooth relationship with them before they registered the marker against his name.

Now both sides have had an opportunity to comment I can go ahead and issue my final decision.

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 response to the provisional decision, Mr O has made some comments, but he hasn't provided any new information or evidence in support of his comments, for me to consider.

I've seen a great deal of evidence, in particular information in relation to the two payments Mr O received from Mr V and Mr A. And information from other complaints Mr O has with this service which involve instances of Mr O receiving numerous payments from several different individuals which have been reported as scams.

I have considered all of this along with Mr O's recent comments and the arguments he has raised throughout the life of this complaint. I am not going to rehearse every argument here. The central issue which I need to decide is whether or not Revolut acted fairly when it registered a Cifas marker against Mr O.

As neither party has provided anything new for me to consider, I see no reason to depart from my provisional findings. I remain of the view that this complaint should not be upheld for the reasons set out in my provisional decision, which are repeated above and form part of this decision.

In conclusion, I am satisfied that Revolut was justified in placing a Cifas marker against Mr O's name. On this basis I don't think it would be fair or reasonable to ask Revolut to pay Mr O compensation. So, I won't be asking Revolut to do anything further here.

My final decision

For the reasons I've explained, 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 O to accept or reject my decision before 1 August 2024.

Sharon Kerrison
Ombudsman