

The complaint

Mrs C complains that Revolut Ltd did not refund a series of payments she lost to a scam.

What happened

Mrs C saw a celebrity on television discussing the profits they made investing in cryptocurrency. She looked on social media and found a company I'll call 'X' for the purposes of this decision. She signed up with X and started talking with a 'financial advisor' who told her to open an account with Revolut, which she did. She made the following card payments from her Revolut account to a cryptocurrency wallet in her name:

- 28/04/23 - £250
- 08/05/23 - £3,000
- 22/05/23 - £1,080
- 23/05/23 - £1,080
- 23/05/23 - £1,000

Mrs C attempted to make a withdrawal from the investment platform, as she appeared to have over £10,000 in returns. She was told to pay a fee, which she did. However, she was then told to pay half of her profits to the cryptocurrency platform. When she attempted to transfer funds from her third-party account to her Revolut account, this was stopped for further checks. The third-party bank was unhappy with Mrs C's answers and blocked the payment, as they felt Mrs C may be the victim of a scam. Two days later, Mrs C raised a scam claim with Revolut.

Revolut issued a final response letter in which they explained they had no grounds to raise a chargeback claim for the payments, and they felt they had acted fairly when the payments were processed. So, they did not agree to reimburse Mrs C. The complaint was referred to our service and our Investigator looked into it.

They felt that there should have been a general cryptocurrency scam warning for the payment of £3,000, but they did not think this would have broken the spell of the scam for Mrs C. This is because having reviewed the phone calls Mrs C had with her third-party bank, they could see she had misled them about the purpose of the payments, even after the bank expressed concerns that she was the victim of a scam.

Mrs C's representatives did not agree with the outcome. In summary, they felt a warning from Revolut would have compounded the warning from Mrs C's third-party bank, and it's more likely this would have uncovered the scam. They also highlighted Mrs C's age at the time of the scam, as she was over 65, meaning she was more vulnerable to scams.

As an informal agreement could not be reached, the complaint has been passed to me for a 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.

I'm satisfied Mrs C has been the victim of an investment scam, and I'm sorry she's had to go through this experience. This complaint is against Revolut and not the scammer, so I can only consider their actions in this decision.

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 have been good industry practice at the time, I consider it fair and reasonable in April 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.

On balance, I think that Revolut ought to have recognised that the second card payment of £3,000 carried a heightened risk of financial harm from fraud because it was going to company that is identifiably linked to cryptocurrency. Considering the prevalence of cryptocurrency related scams, and the higher value of the payment, I think a proportionate response to that risk would have been for Revolut to provide an automated warning about cryptocurrency related scams.

When considering the level of intervention needed, I've considered the representative's comments about Mrs C's age and that she therefore should have been flagged as potentially vulnerable. Firstly, the FCA's '*occasional paper no.8*' sets out that customers who are 'older old' and gives an example age of 80, could be a risk factor for vulnerability but pointed out this was not absolute. In any event, even considering Mrs C's age, I am still satisfied Revolut was required to provide an automated warning relating to cryptocurrency scams and this was a proportionate response to the risk level involved in the payment of £3,000. But, had it done so, I'm not persuaded that would have prevented Mrs C's loss. I'll explain why.

I've reviewed the communication between Mrs C and her third-party bank that she used to make transfers into her Revolut account. I can see that on 23 May 2023, they paused a payment of £1,000 into her Revolut account, and when asked, Mrs C said the purpose of the payment was to carry out online shopping for her daughter's wedding. They allowed this payment to go through.

On the same day, the third-party bank paused another attempted transfer of £5,400 going to her Revolut account. Mrs C again said this was so she could shop online, specifically for her daughter's wedding the following year. And when asked if she was using the funds to invest in cryptocurrency, Mrs C said no. It therefore appears Mrs C was misleading her third-party bank, to ensure the payments were able to be processed and to circumvent their fraud detection systems. It isn't clear if the scammer has specifically guided her to mislead her banks, but I think it's more likely she was deep under the spell of the scammer at that time.

Importantly, when the third-party bank expressed they had concerns Mrs C could be the victim of a scam, she asked if she could make payments to an alternative account instead, seemingly to still try and make the payments towards the scam. And it wasn't until the following day that she raised a scam claim with her third-party bank. So, I think it's unlikely an automated cryptocurrency scam warning from Revolution would have revealed the scam two weeks before this, especially as at that point she still felt she was making investments into the scam, and she was not yet at the stage where she was being told to pay more and more fees to withdraw her payments.

With all of the above in mind, while I do think Revolut should have intervened in the payment of £3,000 and provided a cryptocurrency scam warning, I don't think this would have broken the spell of the scam at that time and prevented Mrs C from making further payments. And I don't think any other payments warranted intervention from Revolut. So, I don't think they need to reimburse Mrs C in the circumstances.

Revolut has correctly set out that they were unable to raise a chargeback claim for the card payments. The chargeback scheme is voluntary and run by the card issuers and not Revolut. Its purpose is to resolve disputes between merchants and consumers. In this case, Mrs C's dispute is with the scammer and not the merchant, and I note the merchant has provided the service paid for, namely the purchasing of cryptocurrency. So, I agree there was no grounds for Revolut to raise a chargeback claim in the circumstances.

My final decision

I do not uphold Mrs C's complaint against Revolut Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 25 October 2024.

Rebecca Norris

Ombudsman