

The complaint

Mr B complains about the actions of Revolut Ltd when he lost money to a scam.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In October 2023 Mr B was contacted by an unknown third party that I will call D in a well known social media app. After exchanging messages, the third party explained that she invests in cryptocurrency and offered to help Mr B do the same.

Mr B sent money to D via his account with Revolut. Mr B paid four deposits into his Revolut account between 9 November 2023 and 15 November 2023 totalling £5,500 these were then exchanged into crypto. He then sent the crypto directly to a crypto wallet and then on to D.

Mr B realised he had been scammed when he tried to make a withdrawal from D's platform but was asked to make a further payment of £8,888. So, Mr B contacted Revolut to make a claim. Revolut considered the claim but decided not to offer Mr B a refund. As a result, Mr B brought his complaint to this service.

Our investigator didn't think the complaint should be upheld. She said that she didn't think the cryptocurrency withdrawals are a regulated activity under the rules that govern our service – known as DISP - specifically under DISP 2.3. But the deposits into Mr B's Revolut account and the exchange into cryptocurrency could be considered.

The investigator felt that the deposits into the account and the subsequent conversion to crypto were not large enough or unusual enough to have prompted an intervention from Revolut. So she did not think that Revolut could have uncovered or prevented the scam.

Mr B disagreed and asked for an Ombudsman's review.

What I can and can't look into in relation to this complaint

Our service can't consider all complaints that are referred to us. The rules under which we operate are set out in the Financial Conduct Authority's Handbook and are collectively known as the DISP rules. We can only consider complaints that fall within our jurisdiction, in line with these rules.

Particularly relevant to Mr G's complaint is DISP 2.2 which states:

"DISP 2.2: Which complaints can be dealt with under the Financial Ombudsman

Service?

2.2.1 The scope of the Financial Ombudsman Service's two jurisdictions depends on:

(1) the type of activity to which the complaint relates..."

Those activities are then listed in DISP 2.3 (although I will not list all of them here). We can only consider complaints that relate to an act or omission by a financial business in carrying out one or more of the activities listed in DISP 2.3.

Cryptocurrency isn't electronic money or fiat currency according to the Financial Conduct Authority – instead it classifies cryptocurrency, and similar cryptocurrency-assets, as 'exchange tokens'. The operation of cryptocurrency services isn't currently regulated by the financial regulator in the UK.

There are no activities listed in DISP 2.3 which would cover the activity this part of Mr B's complaint relates to – namely, withdrawing the cryptocurrency and sending it on to the scammer. And so, I don't think his complaint in relation to the cryptocurrency payments relates to an activity covered by us.

I am mindful that Mr B deposited fiat currency to his Revolut account and then exchanged this into the cryptocurrency which was withdrawn and ultimately lost to the scam. But the sending of the cryptocurrency was provided separately from the provision of Mr B's main e-money account. In the circumstances, I don't consider Revolut's provision of sending cryptocurrency services to be sufficiently closely linked to its provision of payment services to Mr B (through the provision of his e-money account) that it should be deemed ancillary to this. So, I'm satisfied that this service is unable to investigate the withdrawals of cryptocurrency here.

What I can look at is whether Revolut should have intervened when the deposits into Mr B account were made or when the funds were converted into crypto.

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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Mr B has been the victim of a cruel scam. I know he feels strongly about this complaint and this will come as a disappointment to him, so I'll explain why.

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.

And, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Revolut should have fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances (irrespective of whether it was also required by the express terms of its contract to do so).

This service's approach is that Revolut should have been aware of the increase in multistage fraud, particularly involving crypto, when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control, before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a crypto wallet held in the consumer's name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and crypto wallets.

This service considers it appropriate for Revolut to also provide warnings when making unusual and suspicious payments to external cryptocurrency wallets. And we also consider it appropriate for Revolut to do the same when a customer uses Revolut's own facilities to exchange fiat currency into crypto. That's because this also carries a similar risk of later harm to a crypto related scam.

That said, there is a balance to be had – Revolut can't be expected to intervene on each and every transaction. So I would only expect Revolut to intervene when the transactions in question were large enough to be deemed unusual for the individual customer or had a pattern commensurate with a scam.

In this instance, the deposits and subsequent conversion into crypto were not, in isolation, large enough to be considered unusual or sufficiently out of character to have prompted an intervention from Revolut. And the pattern of the activity was not sufficiently indicative of a scam either. The 4 deposits and subsequent conversion to crypto were not done on the same day so were spaced out. The account had also not really been used regularly before. So Revolut did not have a long transaction history to compare the activity to, to understand whether this was unusual for Mr B. I also note that when the account was initially opened, one of the reasons stated for the account being opened was for crypto.

So, having considered what happened, I'm not persuaded there was anything that ought reasonably to have triggered Revolut's fraud monitoring systems, or that would have indicated Mr B was in the process of being scammed. I therefore do not consider there to have been any obligation on Revolut to have intervened or to have provided a scam warning to Mr B. Given this, I do not think that it could have uncovered and prevented the scam.

Recovery

As I don't consider the cryptocurrency withdrawals to be a regulated activity, I can't make a finding on whether Revolut did enough to recover Mr B's money.

I appreciate this will come as a disappointment to Mr B, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that Revolut can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 December 2024.

Charlie Newton
Ombudsman