

## **The complaint**

Miss B complains that Revolut Ltd won't refund money she lost when she fell victim to a scam.

## **What happened**

In January 2021 Miss B fell victim to a scam.

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Miss B has told us that, on 14 January 2021, she received a call from an individual saying they were from HMRC and that she had unpaid tax. The caller told Miss B that the outstanding tax had to be paid immediately to cancel an order for her to be arrested. They added that they had visited her house, but as she wasn't there this is why they were now calling her.

Miss B has told us that while on the phone she checked the number that she had been called from online, and it appeared as the Ministry of Justice (MOJ). Miss B says she understands the MOJ's role to be one of criminal prosecution, so she was anxious about getting the call from them.

She added that the caller knew details about her, including her name and address, and they quoted British law and were using legal language. Miss B said that at the previous company she had worked for, there had often been tax errors and she thought it was something to do with that. Miss B said she wanted the threat of imprisonment to stop and she was scared of being arrested. She was told if she didn't pay immediately police would come to her house to arrest her. She's said she felt impelled to resolve things by doing what she was being asked to by who she thought was the MOJ, by making the payments the caller was instructing her to. But unknown to her at the time, she was speaking with a fraudster.

Believing the call to be genuine, Miss B went ahead and followed the fraudsters instructions to make payments. She was told to make her payments through her Revolut account, rather than the account she held with another bank, as the fraudster told her the transfer would be instant if she made it through her Revolut account. Over the course of just under three hours Miss B made the following transfers, totalling £6,650, to two separate accounts, under the fraudster's instructions;

14/1/2021	11:18am	£999
14/1/2021	12:02pm	£925
14/1/2021	12:31pm	£926
14/1/2021	13:04pm	£925
14/1/2021	13:06pm	£925
14/1/2021	14:04pm	£1,950

Miss B has said that about an hour or so later she called the MOJ to check that the payments had been received and that any order against her had been stopped. On speaking to the genuine MOJ she was told that it was not them who had called her, and at this point she realised she had been the victim of a scam.

Miss B raised the matter with Revolut, who contacted the receiving bank, but no funds remained. Revolut said it wouldn't refund the scam payments as Miss B had authorised them. It also said it had provided her with warnings about scams at the time, after blocking attempts to make the first payment and final payments.

Miss B then brought her complaint to our service and one of our investigators looked into it. Our investigator recommended that the complaint should be upheld. In summary, she thought Revolut should have done more at the point it had recognised the suspicious activity on the account. She considered if it had done so, Miss B wouldn't have gone ahead with the payments and wouldn't have lost this money, so she thought Revolut should refund the money she had lost, along with interest.

Revolut, didn't agree with our investigators view. In summary it maintained that it had blocked the payments and provided a warning. It added that it didn't think direct contact with Miss B would have made a difference, and that due to fear she would have still gone ahead with the payments.

As agreement couldn't be reached the complaint has been passed to me for a 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 very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I accept the transactions were authorised payments, even though Miss B was the victim of a sophisticated scam. She used the Revolut banking app and her security information to make the payments. So, although she didn't intend the money to go to the fraudsters, under the Payment Services Regulations 2017 and the terms and conditions of her account, Miss B is presumed liable for the loss in the first instance.

However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Revolut should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and 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 banks 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, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

From looking at Miss B's account statements in the six months leading up to the scam, I'm persuaded the payments Miss B made to the fraudsters weren't typical of her usual account activity. There isn't really any disagreement about this point, as Revolut has confirmed the first transfer for £999 was flagged and declined by its systems, due to it being suspicious and uncharacteristic in nature. With this in mind, I have to consider whether Revolut did enough once it suspected there was a high risk of fraud.

Revolut has said the following warning was displayed each time the attempted payment was blocked:

*Review transfer*

*Our systems have identified your transaction as highly suspicious. We declined it to protect you. If you decide to make the payment again anyway, you can, and we won't decline it. As we have warned you this payment is highly suspicious and to not make the payment, if the person you pay turns out to be a fraudster, you may lose all your money and never get it back. You can learn more about how to assess this payment and protect yourself from this link: <https://takefive-stopfraud.org.uk/>*

Miss B had to acknowledge this message in order to move on. She has said that she has no recollection of seeing this warning, nor does she recall a warning about not paying a new recipient unless she knew the person, though it seems likely, based on the available evidence, that she was presented with such warnings.

I acknowledge Revolut has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud and for when it ought to intervene. Here, it thinks the warnings it gave were enough in the circumstances. And it's said how it can't give detailed warnings about all the different types of scam that a customer might be falling victim to. But I'm satisfied it ought, fairly and reasonably, to have done more here.

Banks are expected to carry out the payment instructions it receives from its customers. But that isn't without exception and the broad regulatory landscape obliges banks to protect its customers from fraud and financial harm. I'm not persuaded the action taken, in the circumstances of this case, was enough to protect Miss B, particularly when considering how the pattern of spending continues to present as being high risk in terms of known patterns of fraud (multiple new payees, payments made in quick succession, the balance of the account being cleared repeatedly).

The warning Miss B was given was very generic and didn't highlight what the risks of making the payment might be. Miss B was given no context as to what Revolut thought might be wrong or how she might protect herself (aside from simply not proceeding). And it is the case, as I've mentioned, that once the warning had been given, the account activity became more suspicious, not less so.

Without proactive steps to 'break the spell' of fraudsters, customers will often proceed with the payment they are making. They are unaware that they are caught up in the scam. And when sophisticated elements such as number spoofing are involved, then the scam

becomes significantly more persuasive. A generic and unspecific warning is unlikely to have the required impact on a customer that has been manipulated into action through a combination of sophisticated means and fear.

Had Revolut intervened I'm persuaded, on balance, it more likely than not would have made the difference and I don't think Miss B would have gone ahead with the payments. I say that as it doesn't appear Miss B was given a cover story for these payments. So if asked by Revolut what the payment was for, I think she would have spoken freely and explained that she'd been called by the MOJ and told to make immediate tax payments, and that she'd be arrested if she didn't. I would then have expected Revolut, which would have more awareness of common scams than Miss B, to have realised this was a scam. As the financial professional in this situation, I consider it likely that, if it had explained its concerns to Miss B, this would have "broken the spell". I think this is supported by Miss B's uncovering the scam herself, shortly after she had made the final payment.

I've gone on to think about whether Miss B ought to bear some responsibility for her loss, considering her actions at the time of the scam. I don't think Revolut has given enough consideration to the fact the fraudster had created an environment where Miss B was in fear of arrest, if she didn't act quickly. Here, Miss B received a call on a spoofed number. She checked that number online before making any payments. And I don't think it should be underestimated how powerful that can be in affecting a customer's decision making. Most people won't be aware that such a technique is even possible. The convincing nature of these scams can often have a negative effect on a person's thought process and make them take steps that, in the cold light of day they might not otherwise take.

In considering all of the circumstances of the case I don't find Miss B should bear any responsibility for the loss by way of contributory negligence. She was the victim of a sophisticated scam and I'm persuaded she was unaware of the risks in making the payments she did. Revolut, as the expert in the relationship, ought to have done more.

### **Putting things right**

Revolut Ltd should now;

- Refund Miss B the £6,650 she lost and;
- Pay 8% interest per year on that amount (less any tax properly deductible) from the date of the transactions to the date of settlement.

### **My final decision**

My final decision is that I uphold this complaint against Revolut Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 28 February 2022.

Stephen Wise  
**Ombudsman**