

The complaint

Miss K is unhappy with the service Revolut Ltd provided after she fell victim of an authorised push payment (APP) scam.

What happened

Miss K says she was contacted by a government official who explained she was under investigation, and she had to make a payment, or she would receive a fine of £29,000 or face criminal charges brought against her.

Miss K has explained that she was told not to tell anyone as her place of work was also under investigation. She says the scammer called her from a number listed on the government official's website and spent four hours on the phone talking her into transferring the money. Miss K was told once she had transferred the funds, she would receive the funds back after the investigation was completed.

Miss K set up a new payee and made several internal transfers to another Revolut account in a third parties name, the details of which the scammer had provided. The transactions she made are:

Date	Time	Amount
24/03/2023	12.19	£640
24/03/2023	13.2	£640
24/03/2023	14.3	£796
24/03/2023	16.19	£900
24/03/2023	16.22	£840

After making the transactions and not receiving the refund Miss K realised she had fallen victim of a scam. So, on 24 March 2023, she contacted Revolut, via its in-app chat support, to explain what happened.

Revolut have said it immediately (within 24 hours) launched a request to freeze and retrieve the funds from the beneficiary's account. However, on 25 March 2023, it was confirmed that no funds were available to retrieve. On the same day it notified Miss K. So, Miss K raised complaint with Revolut.

Firstly, Revolut said its systems detected that some of Miss K's payments were being sent to new beneficiaries. As such, it displayed a message in Miss K's app saying *"Do you know and trust this payee? If you're unsure, don't pay them, as we may not be able to help you get your money back"*. Revolut said Miss K acknowledged these warnings and proceeded anyway.

Secondly, it said that its systems detected that some of the transfers were out of character and stopped a transaction. It then proceeded to warn Miss K once more that it was very likely that she was falling victim to a scam. And Revolut also provided Miss K with a link to a

blog where it informs its customers on different types of possible scams. It says Miss K dismissed the warning and issued a second transfer to the same beneficiary.

However, while Revolut says its systems did flag the transaction as suspicious and issued a warning, it is satisfied the funds were not out of line with her usual account expenditure. It went on to explain that, when it was made aware of Miss K's circumstances, it acted quickly and promptly to try and recover the funds. As such, it feels it hasn't done anything wrong. Miss K remained unhappy with Revolut's response and referred the case to our service. Our investigator looked into the complaint. She said she felt Revolut ought to have been concerned about the £900 and £840 transactions. She explained that while she didn't think the value of the transactions was necessarily out of character, she did consider that there was a new payee and the fact Miss K continued to make several payments on the same day during a four-hour period which she hadn't done before.

That said, our investigator also considered that Miss K ignored the warning given by Revolut, didn't visit the website which the warning referred her to, didn't verify the scammers story with the government official the scammer said they were calling from and didn't consider the payments were being made to an individual's name oppose to the government official's name. Therefore, she felt Miss K should bear some of the responsibility for the situation she now finds herself in.

So, she recommended that Revolut refund 50% of the payments Miss K made from the £900 payment onwards (totalling £1,740); the total she recommended it refund was £870. In her view, said simple interest should be added to this amount at 8% per annum, as the funds used were from Miss K's current account. This should be applied from the date of payment until the settlement is paid.

Miss K didn't agree, so she asked for the complaint to be referred to me to consider.

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 sorry to hear that Miss K has lost money in a cruel scam. I can understand how stressful and upsetting this must have been for her given the circumstances.

It is clear Miss K's concern is that Revolut ought to have prevented the payments she instructed it to make. The starting position is that Revolut ought to follow the instructions given by its consumers in order for legitimate payments to be made as instructed. But I've considered whether Revolut should have done more to prevent Miss K from falling victim to this scam.

As an Electronic Money Institution (EMI), Revolut doesn't necessarily have the same obligations as a bank. I nonetheless find that there are still some situations where it should reasonably have a closer look at the circumstances surrounding a particular transaction or set of payments because they indicate a consumer might be at risk of financial harm from fraud (amongst other things). For example, if account movements were markedly out of character or suspicious for a consumer compared to how they typically operated their account.

When considering what payments should be considered significantly out of character, it's often a finely balanced matter – and firms have a difficult balance to strike between identifying transactions where there are indications of higher fraud risks and allowing customers to utilise their accounts as they want to with minimal unnecessary disruptions.

With that in mind, I've considered whether Revolut should have considered these payments as being sufficiently unusual or uncharacteristic to the extent that it ought to have had sufficient grounds for suspecting fraud.

The first payment Miss K made for £640 was declined due to Revolut's security system prompting it to trigger due to a new payee being set up on the account (I note that Revolut maintain this wasn't due to the transaction being suspicious). However, I am also aware that Miss K received a generic fraud warning explaining why this transaction was declined, which said:

"Our systems have identified your transactions 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...."

It went on to explain that as Revolut had warned Miss K, if she did continue to make the payment it may not be able to recover the funds. It also included a link to its website which provides customers with more information to help them understand prevalent scams. I have seen evidence to show this warning was activated and Miss K continued with the payment. I can also see that Miss K was given a warning when she set up a new payee which said: *"Do you know and trust this payee? If you're unsure, don't pay them, as we may not be able to help you get your money back."* After receiving this warning Miss K proceeded.

I accept Revolut's point that the value of each transaction was low and in line with the value of other transactions on Miss K's account. So, in regard to this point I agree, the value of the transaction was not significantly out of character or significant enough to trigger on Revolut's fraud detection systems.

That said, I also note that there were five (four authorised) transactions made over the space of four hours, to a new beneficiary. This is unusual activity and is uncharacteristic in relation to Miss K's usual pattern of account activity. And given that a fraud warning had already been activated, I think it's reasonable to conclude by the fourth payment at 16.19pm for £900 Revolut ought to have considered this activity as unusual and suspicious. As such, I think it is reasonable to conclude that this ought to have triggered its fraud detection system. So, I think Revolut ought to have contacted Miss K and asked her to provide further details about the payment in question before letting it go.

I've thought carefully about the kind of questions I believe Revolut ought to have asked Miss K and if those questions would have ultimately made a difference to her going ahead with the payment. Still, I have also had to bear in mind that the level and depth of questioning has to be proportionate to the situation - I have to consider that Miss K should not have been subjected to an interrogation by Revolut, pursuant to the relevant rules and accepted good industry practice.

In my view, it would have been proportionate for Revolut to have asked Miss K to provide details such as; to whom the money was being paid to; why; how she had been contacted; if the payee had provided any documentation to validate the story; and what Miss K had done to check the validation of the story. If it had done so, on the balance of probabilities, I think Miss K or Revolut would have quickly established that she was in the process of being scammed and consequently the payment wouldn't have been sent and her losses from that point onwards would have been avoided.

I say this because, upon asking Miss K the above questions, she would have likely revealed how she had been contacted, what she had been asked to do and that there was no validation of the story such as documentation. The only thing Miss K would probably have disclosed is that she had checked the phone number that had contacted her. I have taken

this into account along with the fact Miss K wasn't given a 'cover story' and the scammer wasn't coaching her on how to answer the question (in real time) Revolut may ask. What's more, I find it fair to say that this scenario created by the scammers is something I would expect a regulated EMI like Revolut to have identified as very suspicious. The circumstances seemed at odds with how a consumer would normally be told about an alleged outstanding tax bill. Not least, because Revolut often tackles an array of different authorised scams – and this had the hallmarks of such.

I have also considered if Revolut took reasonable steps to try and recover the funds. Miss K contacted Revolut on 24 March 2023 and I have seen evidence to show that Revolut took steps to retrieve the funds. However, on 25 March 2023, it confirmed no funds were available to retrieve. Having reviewed the evidence, I am satisfied that Revolut did employ reasonable endeavours to try and recover the funds but was unfortunately unsuccessful. With that in mind, all that's left for me to decide is whether this redress (a refund of the £900 and £840 payment) should bear a deduction for the acts or omissions by Miss K. This can otherwise be known as 'contributory negligence'.

Contributory negligence is an important consideration when making an award. It can be explained as weighing up whether a consumer should have done something to mitigate their losses. Under these circumstances, to make a deduction for contributory negligence I must be satisfied of two things; Miss K was partly at fault for these payments being irretrievably made; and a link can be established between this fault and the financial loss she has incurred.

There's no doubt that this was a cruel scam and I certainly wouldn't want it to come across as me placing blame on Miss K for this. Even so, I am obliged to consider contributory negligence, and in doing so, the starting point is to think about what a *reasonable person* would be expected to do in the circumstances – and whether Miss K's actions fell below that. Having reviewed the circumstances of the scam, I think there were some red flags. And when considering the accumulation of these warning signs I think it's fair to conclude that Miss K ought reasonably to have known something was untoward. Miss K has explained that prior to making the first transfer, she had been on the phone to the scammer for four hours, so I accept she would have been tired and concerned about the "*criminal charges*" she was facing.

That said, Miss K was able to check the contact number which had called her and confirmed it was listed on the website of the government official who the scammer was impersonating. As such, Miss K was able to carry out some due diligence. We also know she was able to contact friends to arrange for help to make the payments being asked of her – meaning that she was able to check certain things and communicate during the material time. Consequently, I don't think it's unreasonable to conclude further steps could have been taken to establish the validity of the story. Such as, contacting the government official to check prior to transferring the funds. Indeed, I'm aware that Miss K did do this (after making all the transfers) and this is how she established she had fallen victim of a scam. It follows that, if this had been done originally, it's very likely that it would have prevented further payments being sent to the scammer.

Secondly, prior to making the payment, the scammer had provided Miss K with the details of the bank account the funds needed to be transferred to. And this was in an individual's name oppose to the government official's name. I think it's reasonable to conclude that this ought to have raised some concerns regarding the scammers story and validity and who Miss K was actually sending money to. Not least, because Miss K was told the UK tax office was pursuing her for payment – which begs the question why an *individual* would need to be sent funds.

I've also given the serious nature of the accusations Miss K was being accused of (tax evasion). And the fact Miss K was contacted via a social media messaging platform to be notified of such charges. I think it's fair to say that most people would have considered this somewhat suspicious. Not to have any formal documentation outlining the charges or evidencing such accusations. And the first time she had heard about it was via a social media messaging platform. Again, I think this ought to raise some concerns for Miss K given the official nature of the alleged crime.

Miss K was also told that after making the transfers she would be refunded straight away, and these charges were for "*case resolvent charges*". But again, considering the serious accusations Miss K faced, and the fact she was told she would face a fine for £29,000, this story doesn't strike me as being reasonably acceptable (without further enquiry). Why would she be refunded an amount for "*case resolvent charges*" when the story was, she had been accused of tax evasion and therefore, money was owed? And if it was for '*case resolvent charges*' why was it being refunded? I do think this ought to have raised apparent and immediate concerns for Miss K and ought to have made her want to enquire further about what the charges were actually for. And if Miss K had have clarified the position with the relevant government body (which she went on to do after she had made the transfers) it would have been revealed to her it was a scam.

So, after taking into consideration the accumulation of warning signs I conclude that a reasonable person would have started to seriously doubt the plausibility of the scammer's story. As a consequence, I think Miss K could've done more to protect herself. It follows that, in the circumstances of this case, I'm satisfied its fair and reasonable that Revolut should take 50% liability from when I feel the payment ought to have triggered (as outlined above) with Miss K being held liable for the remaining half. Overall, I find this a commensurate deduction that is just and equitable in the circumstances. I also understand that Revolut has accepted this position as it accepted the investigator's opinion.

Putting things right

As outlined above, Revolut Ltd has already accepted 50% liability and should now pay Miss K £870, plus statutory interest of 8% to settle the complaint: I find this is fair and reasonable for the reasons I have explained above.

My final decision

My final decision is that I uphold this complaint and Revolut Ltd should pay Miss K in line with my findings outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 11 October 2023.

Jade Rowe
Ombudsman