

## **The complaint**

Ms T is unhappy that Revolut Ltd won't reimburse her a financial loss she suffered as a result of fraud.

## **What happened**

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In May 2023, Ms T received a call from a person purporting to be a representative of a third-party bank where she held an account. Unfortunately, unbeknown to Ms T at the time, she was in fact talking to a person intent on defrauding her.

The fraudster informed Ms T that her account had been compromised and instructed her to move her funds from the account in order to keep them safe. Ms T made a payment of £5,520 from her account held with the third-party bank to her Revolut account.

Ms T was then instructed to transfer these funds from her Revolut account to another third-party account held in another person's name. The fraudster told Ms T that this was an account controlled by a fraud manager that worked within the bank.

On 11 May 2023, Ms T made four payments from her Revolut account:

1. £100 – 3:21pm
2. £1,990 – 3:22pm
3. £1,980 – 3:30pm
4. £1,500 – 3:34pm

As soon as the transfers had been completed, the purported representative of the bank hung up the phone, and Ms T realised she'd been the victim of a fraud.

Ms T reported the matter to Revolut, but says she was frustrated by its in-app chat and lack of engagement and urgency in the matter. She was also informed that her claim had been declined due to a failure to provide a police report.

Ms T became frustrated with the process and felt the errors made by Revolut caused a delay in her funds being recalled from the recipient bank. She therefore submitted a subject access request to Revolut asking it to provide the recovery attempt information, but it refused to provide it. It also declined to reimburse Ms T's loss as it felt it hadn't made an error in processing the payment. Revolut did however manage to recover £1,502.38 of Ms T's loss from the beneficiary bank. This included a reversal of payment 4 and a £2.38 balance that remained in the account.

Ms T made a formal complaint to Revolut as she remained unhappy with its handling of her claim. It looked into her complaint but found no error in its decision not to reimburse her loss. However, it did acknowledge a lack of quality in the support it provided when dealing with her information request and provided an upgrade to her account, free of charge, for three

months to compensate her.

Ms T remained unhappy with Revolut's handling of her complaint, so she brought it to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties, but recommended the complaint be upheld.

In summary, they found that Revolut ought to have done more to protect Ms T's account once the third payment had been initiated. And had it done so, they found it would have been likely the fraud could have been prevented. They therefore recommended Revolut reimburse Ms T's loss from the third payment onward: minus any recovered funds. They also recommended that £150 be paid in compensation, for the poor quality of service provided.

Revolut disagreed with the Investigator's view, so the matter has now been passed to me for a decision to be made.

### **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've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

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, as the Supreme Court has recently reiterated in *Philipp v Barclays Bank UK PLC*, subject to some limited exceptions banks have a contractual duty to make payments in compliance with the customer's instructions.

In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks to their customers when making payments. Among other things, it said, in summary:

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, it must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.
- At paragraph 114 of the judgment the court noted that express terms of the current account contract may modify or alter that position. In *Philipp*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a legal duty to do so.

In this case, the terms of Revolut's contract with Ms T modified the starting position described in *Philipp*, by expressly requiring Revolut to refuse or delay a payment "*if legal or*

*regulatory requirements prevent us from making the payment or mean that we need to carry out further checks”.*

So Revolut was required by the implied terms of its contract with Ms T and the Payment Services Regulations to carry out their instructions promptly, except in the circumstances set out in its contract, which included where regulatory requirements meant it needed to carry out further checks.

Whether or not Revolut was required to refuse or delay a payment for one of the reasons set out in its contract, the basic implied requirement to carry out an instruction promptly did not in any event mean Revolut was required to carry out the payments immediately<sup>1</sup>. Revolut could comply with the requirement to carry out payments promptly while still giving fraud warnings, or making further enquiries, prior to making the payment.

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 in May 2023 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).

In reaching the view that Revolut should 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, I am mindful that in practice all banks and EMI's like Revolut do in fact seek to take those steps, often by:

- using algorithms to identify transactions presenting an increased risk of fraud;<sup>2</sup>
- requiring consumers to provide additional information about the purpose of transactions during the payment authorisation process;
- using the confirmation of payee system for authorised push payments;
- providing increasingly tailored and specific automated warnings, or in some circumstances human intervention, when an increased risk of fraud is identified.

In reaching my conclusions about what Revolut ought fairly and reasonably to have done, I am also mindful that:

- Electronic Money Institutions like Revolut are required to conduct their business with “due skill, care and diligence” (FCA Principle for Businesses 2), “integrity” (FCA Principle for Businesses 1) and a firm “must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems” (FCA Principle for Businesses 3)<sup>3</sup>.
- Over the years, the FCA, and its predecessor the FSA, have published a series of publications setting out non-exhaustive examples of good and poor practice found

---

<sup>1</sup> The Payment Services Regulation 2017 Reg. 86 states that “the payer’s payment service provider must ensure that the amount of the payment transaction is credited to the payee’s payment service provider’s account **by the end of the business day following the time of receipt of the payment order**” (emphasis added).

<sup>2</sup> For example, Revolut’s website explains it launched an automated anti-fraud system in August 2018: [https://www.revolut.com/news/revolut\\_unveils\\_new\\_fleet\\_of\\_machine\\_learning\\_technology\\_that\\_has\\_seen\\_a\\_fourfold\\_reduction\\_in\\_card\\_fraud\\_and\\_had\\_offers\\_from\\_banks/](https://www.revolut.com/news/revolut_unveils_new_fleet_of_machine_learning_technology_that_has_seen_a_fourfold_reduction_in_card_fraud_and_had_offers_from_banks/)

<sup>3</sup> Since 31 July 2023 under the FCA’s new Consumer Duty package of measures, banks and other regulated firms must act to deliver good outcomes for customers (Principle 12), but the circumstances of this complaint pre-date the Consumer Duty and so it does not apply.

when reviewing measures taken by firms to counter financial crime, including various iterations of the *“Financial crime: a guide for firms”*.

- Regulated firms are required to comply with legal and regulatory anti-money laundering and countering the financing of terrorism requirements. Those requirements include maintaining proportionate and risk-sensitive policies and procedures to identify, assess and manage money laundering risk – for example through customer due-diligence measures and the ongoing monitoring of the business relationship (including through the scrutiny of transactions undertaken throughout the course of the relationship). I do not suggest that Revolut ought to have had concerns about money laundering or financing terrorism here, but I nevertheless consider these requirements to be relevant to the consideration of Revolut’s obligation to monitor its customer’s accounts and scrutinise transactions.
- The October 2017, BSI Code<sup>4</sup>, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code (and Revolut was not a signatory), but the standards and expectations it referred to represented a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now (regardless of the fact the BSI was withdrawn in 2022).

Overall, 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 May 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).

*Should Revolut have recognised that Ms T was at risk of financial harm from fraud?*

Ms T opened her account with Revolut approximately 18 months prior to the fraud that is subject to this complaint. That meant that Revolut had a sufficient overview of the way in which Ms T operated her account on a day-to-day basis.

Having considered Ms T’s prior account activity, it is apparent that she mostly used it for lower value card payments, money exchange and transfers. There is one occasion over the period where Ms T makes a higher value transfer to a third-party account, and this would suggest that these types of payment were not typical or in line with her normal account usage.

For the above reasons, I don’t find that the first two payments Ms T made on instruction of the fraudsters were out of the ordinary. The first payment of £100 was a fairly typical transaction you’d see Ms T carry out on a regular basis. And the following £1,990 payment

---

<sup>4</sup> BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

was in line with her occasional higher value payment. So I don't find Revolut ought to have been particularly concerned about these at the time of processing.

However, when Ms T made the third payment of £1,980, this represented a highly unusual pattern of expenditure. Ms T, over the course of less than ten minutes, had made three transactions to a payee—that had only just been set up—and had made two high value payments in quick succession to that payee. As well as this being a pattern of payments that wasn't typically seen on Ms T's account, this also represented a pattern of expenditure commonly seen in fraud whereby several payments are rapidly made to the same payee.

This ought to have concerned Revolut as a significant fraud risk to Ms T and prompted it to intervene in that payment.

*What did Revolut do to warn Ms T?*

Revolut has argued that it provided sufficient warnings as part of the payment process that were relevant to the fraud Ms T had been victim to. It presented a warning when setting up the new payee for the first of the payments alerting Ms T to risks: such as knowing and trusting the payee before proceeding.

It also prevented the second payment from continuing, flagging it as highly suspicious to Ms T and presenting her with a number of warnings and fraud education screens alerting her to the risks of proceeding. It prompted Ms T to select the purpose of the payment—to which she selected 'something else'—and presented her with further warnings.

I agree with Revolut that these automated warnings were sufficient to the risk associated with these payments. But I don't agree they were sufficient from the point Ms T made the third payment, for the reasons I've provided above. The third payment was significantly out of character and presented fraud indicators to the extent that Revolut ought to have gone further. I find that these risk indicators were significant enough to have prompted it to contact Ms T. I think it should have done this by, for example, directing Ms T to its in-app chat to discuss the payment further.

*What kind of warning should Revolut have provided, and would this have prevented Ms T's losses?*

I have considered the possibility that the fraudster would have directed Ms T to ignore warnings given by the intervening representative of Revolut, much like they did when Ms T was presented with automated warnings as part of the first and second payments. But I don't think it's likely the fraudster would have been successful in bypassing this type of intervention.

Unlike written warnings, Ms T wouldn't have been able to skip past a telephone call or messages on her in-app chat: she would have had to respond. Ms T wasn't given a cover story to tell the bank if it contacted her regarding the payment by telephone or in-app chat. And Ms T was under the impression both her third-party bank and Revolut were investigating the hacking and unauthorised activity, which was confirmed via the purported message she'd received from Revolut. So I find it likely she would have been honest and disclosed the real reasons for the payment.

Had Ms T disclosed to Revolut that she was being asked to move money by a third-party bank to a new account in order to protect those funds, it would have been immediately obvious that Ms T had been the victim of fraud. It would have been able to categorically inform Ms T of this fact, and I find it likely she would have discontinued her contact with the fraudster, stopped the payments and prevented her loss.

### Should Ms T bear any responsibility for her losses?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

The features and tactics used in this fraud were highly sophisticated and convincing. Ms T was first drawn into the fraud by passing her account details over to the fraudster in a re-delivery smishing text. The fraudster was then masqueraded as Ms T's bank in a telephone call.

While the fraudster didn't ring Ms T on a telephone number that was associated with the third-party bank, they did send a verification code to Ms T's telephone number which appeared in the chain of text messages Ms T had received from her genuine bank. I think this was persuasive enough for Ms T to be satisfied she was speaking with her genuine bank.

As well as this, Ms T received a further text message purportedly from Revolut, again confirming that it'd been contacted by Ms T's third-party account provider regarding unusual activity and that a joint investigation was underway.

Both of these text messages would have given Ms T a reasonable degree of reassurance that she was legitimately talking to a representative of her bank.

Revolut has argued that Ms T ought to have heeded warnings it provided as part of the first and second payments made as these contained relevant features of the fraud she was failing victim to: such as that they, and any other financial institution, wouldn't ask her to move money to a safe account. But Ms T has been able to reasonably explain why she skipped past these warnings without reading them. She's told our service the fraudster pre-empted the warnings screens by telling her they would appear and that she could skip past them. As Ms T believed she was dealing with a representative of her bank, and the caller seemed to have knowledge of the screens that would appear, she followed their instruction and didn't read the warnings provided.

For all the above reasons, I don't find that Ms T should bear any responsibility for her loss.

### Recovery

Revolut didn't act as quickly as it ought to when it was alerted to the fraud by Ms T. It didn't report the matter to the beneficiary bank until six days after being informed, as it wanted Ms T to provide a police report. However, a police report wasn't necessary for it to take action and attempt to safeguard Ms T's funds.

However, our service has contacted the beneficiary bank and confirmed that the funds left the beneficiary account minutes after the last payment was sent. So even had Revolut acted as it ought to, it wouldn't have resulted in any further recovery.

### Customer Service

Revolut admitted to Ms T in its response to her complaint that it provided her with incorrect information when she submitted a subject access request for information relating to the recovery of her funds. To apologise for this, it upgraded her account to 'premium' by way of an apology. However, I don't find this to have been reasonable, as it ought to have offered monetary compensation for the distress and inconvenience caused.

Not only was Ms T's claim frustrated by Revolut's insistence of the provision of a police report before proceeding with it, but she was further frustrated by Revolut's lack of care when handling her request for information. I've also read the chat between Revolut and Ms T and note that she was asked questions repeatedly that she had already responded to, causing further frustration.

Ms T had no doubt already come to Revolut in a distressed emotional state due to the fraud that had been committed against her – although this can be attributed to the fraudster rather than Revolut. But I have no doubt this handling of her claim and subject access request exacerbated that distress.

### **Putting things right**

Revolut should only be held responsible for reimbursing Ms T from payment 3 onward. Payment 4 was returned to Ms T's account from the beneficiary bank. And £2.38 was recovered from that account also. So these amounts should be deducted.

Revolut should also pay 8% simple annual interest on the amount from the date of payment 3 to the date of settlement, as it could have prevented the payment from this date.

Lastly, Revolut should pay Ms T £150 for its customer service failings.

### **My final decision**

For the reasons I've given above, I uphold this complaint and direct Revolut Ltd to:

- Reimburse Ms T £1,977.62 of her loss
- Pay 8% simple annual interest on this amount from 11 May 2023 to the date of settlement
- Pay £150 for the distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 8 October 2024.

Stephen Westlake  
**Ombudsman**