

## Complaint

Mr B is unhappy that Revolut Ltd didn't reimburse him after he fell victim to a scam.

## Background

On 8 April 2023, Mr B received a call from an individual who claimed to be an employee of a bank which I'll refer to as Bank H. Mr B holds his own main bank account with H. The caller told him that fraudulent activity had been detected on his account. Unfortunately, this call wasn't from a genuine employee of Bank H, but a fraudster.

They said that someone had tried to authorise payments from Mr B's account. He had, a week earlier, attempted to make an online payment which failed due to an issue with his card. He now suspects that the fraudsters may have obtained his card details during that attempted transaction. During the call, Mr B was informed that the security of his account had been compromised and that he needed to transfer his money to a "safe" account to protect his funds. I understand that the fraudsters made the call appear as though it was coming from a legitimate phone number associated with Bank H, which led Mr B to trust that the call was authentic. He didn't know that it was possible for fraudsters to "spoof" phone numbers in this way.

Mr B was told to transfer money from his account at Bank H to his Revolut account. He was told that this process was necessary to secure his funds. At this point, Mr B already had a Revolut account, which he had opened in August 2022. However, once he transferred his funds from H to his Revolut account, he was told that his Revolut account had also been compromised. He therefore needed to transfer his funds to a different Revolut account which he was told would be created in his name.

Following the fraudsters' instructions, Mr B made a series of payments from his Revolut account on 8 April 2023, as follows:

1	£100
2	£23,900
3	£3,000
4	£20,000
5	£2,000

Revolut has indicated that Mr B would have seen a warning message when initiating these payments, alerting him to the potential risk of safe account scams. Additionally, Bank H queried Mr B regarding the payments, but he had been prepared by the fraudsters with a cover story. He had been instructed to say he was planning to live abroad for a year and needed the funds to purchase a property overseas.

The fraudsters also manipulated Mr B into believing that his phone had been compromised and this meant that hackers could listen to his calls. They assured him that the call he'd received from Bank H's fraud team was secure, but other calls wouldn't be. It was, therefore, essential that he mislead any other employee of the bank who asked him about the payments.

Once Mr B discovered that he had been scammed, he reported the incident to Revolut. It said it didn't think it had done anything wrong in allowing the payments to go through and so it didn't agree to pay a refund. However, it also appeared to have recovered a portion of the funds. It told Mr B that they could not return the recovered funds without a court order or police request. A series of messages followed regarding the steps Mr B needed to take to have the recovered funds returned to him.

Mr B wasn't happy with the response he'd received from Revolut and so he referred his complaint to this service. It was looked at by an Investigator who concluded that Revolut should have intervened by the time of the second payment. She reasoned that Revolut could have taken steps to prevent Mr B's subsequent losses if it had done so. She noted that, although Mr B had been instructed to lie to Bank H, he hadn't been told to do so when talking to Revolut. And if he'd chosen to do so, the agreed cover story (that he was transferring funds to his own account for a property purchase) would've fallen apart because Revolut could've seen the name on the receiving account wasn't Mr B's. The Investigator also said that it was not appropriate to make any deductions for contributory negligence.

Revolut disagreed with the Investigator's assessment, arguing that it had provided sufficient warnings to Mr B, covering the risks associated with safe account scams. Revolut contended that Mr B had acted carelessly by ignoring these warnings. Furthermore, Revolut questioned whether Mr B would have acted differently had the second payment been flagged and challenged, particularly given that he'd misled Bank H.

Since Revolut disagreed with the Investigator's opinion, the complaint has been passed to me to consider and come to a final decision.

## Findings

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 customer'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 Mr B 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 Mr B and the Payment Services Regulations 2017 to carry out its 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 April 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 EMIs 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*"

---

<sup>1</sup> The Payment Services Regulation 2017 Reg. 86(1) 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/>

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 when reviewing measures taken by firms to counter financial crime, including various iterations of *“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 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).

---

<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.

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

*Should Revolut have recognised that Mr B was at risk of financial harm from fraud?*

The Investigator concluded that Revolut ought to have been concerned by the time of Mr B's second payment. I agree with that conclusion. The second payment, amounting to £23,900, was significantly larger than any previous transactions Mr B had made from his Revolut account. It was also directed to a new payee. Although Mr B had made one prior token payment of £100 to this payee earlier the same day, this transaction occurred only six minutes prior. Revolut could not have drawn much reassurance from the fact that Mr B had already made a payment to that payee.

Given these factors, Revolut should have taken steps to look at the transaction more closely before allowing it to proceed. At this stage, Revolut needed to take some action to protect Mr B from the risk of financial harm due to fraud. It did present Mr B with warnings as he set up the new payee and authorised payment 2. I understand that, when adding the payee, Mr B would have seen the following message:

*"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. Remember, fraudsters can impersonate others, and we will never ask you to make a payment."*

Additionally, Mr B was asked to select the purpose of the payment. He chose "*something else*" rather than the option of "*paying a safe account*." Based on this choice, he would have seen the following warning:

*"Are you being scammed? Please be aware if you have been:*

- 1. Instructed by someone you don't know or have recently met to move money from your account.*
- 2. Told your account is at risk, to move funds to a safe account or to take out a loan.*
- 3. Threatened with additional fines or being arrested.*
- 4. Given an offer that seems too good to be true.*
- 5. Asked to ignore this warning."*

These warnings provided Mr B with general guidance and I recognise that they included a reference to being asked to move funds to a safe account. I don't know for sure that the fraudsters used the specific term "*safe account*" which might have made it more likely to stand out on the screen when the warning was displayed. It's quite possible that the term wasn't used, and the fraudsters described what they were doing in a different way. In any case, by this point, he was already convinced that the calls were genuinely from Bank H, and he had been pressured to act quickly. This sense of urgency likely made it difficult for him to take on board the contents of the warning. The detailed content of the second warning, in particular, may have been too much for Mr B to take in while under stress.

### What should Revolut have done in response to payment 2?

Given the high-risk nature of the payment, I am not persuaded that the written warnings alone were an adequate response. Instead, a more suitable approach would have been for Revolut to halt the payment temporarily and require Mr B to interact directly with an employee via the app's chat function. This form of human intervention would have allowed Revolut to query Mr B's understanding of the transaction's purpose and potentially pick out any inconsistencies in his story.

Revolut has questioned whether intervention would have made any difference, pointing out that Mr B ignored warnings during the payment authorisation process and lied to Bank H about what he was doing. Revolut suggests that Mr B would have likely responded in the same way if questioned by Revolut. Mr B's representatives say he was specifically instructed by the fraudsters to lie only to Bank H, not to Revolut. Although I agree that it's unlikely Mr B would have freely disclosed his situation to Revolut, it's also important to consider that the cover story provided by the fraudsters was primarily designed to mislead Bank H. If Revolut had paused the transaction and asked Mr B a few probing questions, the inconsistencies in his cover story would have quickly become apparent.

Mr B told Bank H he was transferring funds to an account in his own name, but Revolut could have seen that he was actually transferring funds to an account in another person's name. In all likelihood, I think if this was drawn to his attention he'd have quickly doubted the authenticity of the call from the fraudster. And if he hadn't, he'd have needed to create a new explanation on the spot to explain why he was making the payment and answer clarificatory follow-up questions. I agree with the Investigator's assessment that Revolut should have required Mr B to answer some probing questions about the purpose of his payments. I think it's more likely than not that, under a basic level of scrutiny, Mr B's story would have unravelled, preventing further payments to the scam.

I accept that this is a finely balanced point. Nonetheless, Revolut's intervention did fall short of what I'd have expected in the circumstances. I'm not persuaded it's shown that he would've been able to come up with a satisfactory explanation on the spot. While I accept that it's possible that he might have pressed on in the face of any further warnings, I think it's more likely than not that he wouldn't have done so.

### Should Mr B bear any responsibility for his 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. Having done so, I am not persuaded that it would be fair to make a deduction in this case.

The scammers initially contacted Mr B using a spoofed number, which matched an official phone number displayed on Bank H's website. Mr B checked the number at the time. This fact reinforced his belief that he was dealing with legitimate staff at Bank H. Mr B also explained that he had attempted an online card purchase the previous week, which failed. The scammers exploited this situation, telling him that his card had been compromised. They appeared to have specific details about his recent transactions, which gave them additional credibility from Mr B's perspective.

Revolut has suggested that Mr B should've been more sceptical that Bank H was asking him to use a cover story if the payments were questioned. But Mr B had already accepted in his own mind that he was dealing with a genuine employee of the bank. This had led him to believe it when he was told that the scammers could listen to his conversations and that any deviation from the fraudster's instructions would put his money at risk.

Revolut has also argued that Mr B should've been sceptical of the idea that the compromise to his account with Bank H could extend to his Revolut account. However, he says that the scammers told him that specialists at Bank H worked in concert with other firms to combat fraud. Unfortunately, Mr B didn't have the expertise required to know that this claim was unlikely to be true. But since he'd already accepted that the caller was an employee of Bank H, I can't say it was unreasonable for him to have trusted what he was told.

The sense of urgency the scammers created was critical in pressuring Mr B. He was repeatedly told that if he didn't act quickly, he could lose all his money. He believed that there was an immediate threat to his money and so he opted to follow the instructions he was given as promptly as possible. This urgency likely compromised his ability to process all the information he was given fully and to evaluate the situation critically.

Overall, I'm not persuaded that Mr B acted in such a way that a deduction for contributory negligence would be justified.

### **Final decision**

For the reasons I've explained above, I uphold this complaint. If Mr B accepts my final decision, Revolut Ltd should refund payments 2 to 5, less any funds that have been successfully recovered. It should also add 8% simple interest to those payments calculated to run from the date they left his account until the date any refund is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 February 2025.

James Kimmitt  
**Ombudsman**