

## The complaint

Mr P is being represented by solicitors. He's complaining about Revolut Ltd because it declined to refund money he lost as a result of fraud.

## What happened

Sadly, Mr P fell victim to an investment scam. He says he was introduced to the scheme that purported to make profits trading in cryptocurrency, and appeared to be endorsed by a well-known celebrity, by a work colleague who was also a victim of the scam. His colleague passed Mr P's details to the scammers who then contacted him and guided him through the process.

To facilitate his investment, Mr P was instructed by the scammer to open an account with Revolut, which he did on 5 June 2023. On the same day, he made a card payment of £1,100 to a cryptocurrency provider.

On 29 June 2023, Mr P's representative says he requested to make a withdrawal and was told he'd need to pay fees to do so. He transferred £7,066 to a second cryptocurrency provider to cover this but £6,728.63 was returned to his account almost immediately. Mr P then transferred £6,700 to a third cryptocurrency provider and a further £10,000 on the following day.

Mr P says the scammer cut contact with him after the payment of £10,000 was received and this is when he realised he'd been scammed.

In summary, Mr P made the following payments from his Revolut account that were lost or partly to the scam:

Payment	Date	Amount	Payee	Notes
1	5 Jun 2023	1,100 EUR	1st crypto provider	
2	29 Jun 2023	£7,066	2nd crypto provider	£6,728.63 returned by payee immediately
3	29 Jun 2023	£7,000	3rd crypto provider	
4	30 Jun 2023	£10,000	3rd crypto provider	

Our investigator recommended the complaint be partly upheld. She felt Revolut should have identified from payment 2 that Mr P was at risk of harm from fraud. And if an appropriate intervention had been carried out at that point, she believed the fraud would have been stopped. She therefore recommended the loss from payments 2, 3 and 4 should be refunded with an appropriate deduction for Mr P's contribution to his loss.

Mr P accepted the investigator's assessment. Revolut didn't accept it and made the following key points:

- It's required to execute valid payment instructions.
- It doesn't owe a duty to prevent fraud and scams and isn't required to assess the

wisdom of or potential for loss associated with a payment instruction.

- It had adequate systems in place to detect and prevent fraud, but this was a new account and it had no past activity against which it could assess whether these payments constituted normal account activity.
- The complaint relates to self-to-self payments and Revolut only acted as an intermediary. The scam didn't originate and wasn't carried out on its platform.
- We should also be considering the actions of Mr P's bank as this was the original source of the money lost before Mr P transferred it to his Revolut account.
- Mr P was negligent in this case, for example by downloading screen-sharing software that allowed the scammer to trade on his behalf. It's irrational to hold Revolut responsible for his loss in these circumstances.

The complaint has now been referred to me for review.

### **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 overall conclusions as the investigator, and for broadly the same reasons. In deciding what's fair and reasonable, I'm 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. I haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts.

In this case, there's no dispute that Mr P authorised the above payments.

In broad terms, the starting position at law is that an Electronic Money Institution (EMI) such as Revolut is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

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 Mr P 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*" (Section 20).

So, Revolut was required by the implied terms of its contract with Mr P and the Payment Services Regulations to carry out his 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 June 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; and
- 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

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<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/](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/)

*“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 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).
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency 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 cryptocurrency wallet held in the consumer’s own name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet

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 June 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

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<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”

particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;

- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene;
- 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).

Taking these points into account, I need to decide whether Revolut acted fairly and reasonably in its dealings with Mr P.

This analysis is focussed on the situation regarding transfers as this was the nature of the payment where I think Revolut should have been able to stop the fraud for reasons I'll come to. I appreciate the situation is slightly different for card payments but I haven't covered this here as the differences don't affect my view on the outcome of the complaint.

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

One of the key features of a Revolut account is that it facilitates money transfers, often involving large amounts. I'm also conscious this was a new account and there was no history of past activity against which these payments might have looked suspicious.

This notwithstanding, Revolut knew or ought to have known the above payments were going to cryptocurrency providers. Losses to cryptocurrency fraud reached record levels in 2022 and, by the end of that year, many high street banks had placed restrictions or additional friction on cryptocurrency purchases owing to the elevated fraud risk. So, by the time these payments took place, I think Revolut should have recognised that payments to cryptocurrency carried a higher risk of being associated with fraud.

On balance, and particularly in view of the amount involved, I don't think there was anything about payment 1 that should have prompted Revolut to suspect it may be part of a scam. But payment 2 was for a much larger amount and, given this was going to a known cryptocurrency provider, I think it should have prompted an intervention from Revolut before it was processed.

*What did Revolut do to warn Mr P?*

Before it processed payment 2, Revolut says it showed Mr P the following warning:

***Review transfer***

***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.*

Revolut then says it showed Mr P what it describes as 'dynamic educational story messages' and these explained how much is lost to fraud each year and that fraudsters are skilled at tricking people into sending money. It says Mr P was then asked to confirm the reason for the payment and its records show he selected that he was sending money to a safe account. He didn't select 'investment', which was one of the other options presented.

Revolut then says Mr P was shown a warning about the risks of safe account scams before being presented with the option to either cancel or continue with the payment. When he selected that he wished to continue, the payment was processed.

*What kind of warning should Revolut have provided?*

On balance, I don't think Revolut's intervention was sufficient in this case. I appreciate Mr P said he was transferring money to a safe account, but Revolut should have known payment 2 was going to a cryptocurrency provider and been aware of the increased risk associated with that type of payment. This was unlikely to be consistent with the stated payment purpose and this discrepancy should have given Revolut further cause for concern about what was really going on.

Having thought carefully about the risk payment 2 presented, I think a proportionate response to that risk would have been for Revolut to attempt to establish the circumstances surrounding the payment before allowing it to debit Mr P's account. I think it should have done this by, for example, directing him to its in-app chat to discuss the payment further.

*If Revolut had intervened in the way I've described, would that have prevented Mr P's losses?*

If Revolut had contacted Mr P to discuss payment 2, it would have had the opportunity to ask him relevant open questions. These could have included the purpose of the payment, how he found out about the investment opportunity, if there was a third-party or broker helping him with the trades, whether he'd actually met the broker in person, whether he'd been asked to download screen-sharing software, what sort of return he was expecting on his investment and whether he'd been asked to pay fees to obtain his money.

I'm conscious Mr P didn't select the correct payment reason when presented with various options by Revolut. But there's no evidence he was coached by the scammer so it's not clear this was an attempt to mislead anyone about what he was doing rather than an innocent mistake or understanding. Either way, Revolut knew the money was going to a cryptocurrency provider and should have identified the most likely type of scam taking place was a cryptocurrency investment scam. As such, I would have expected any intervention to have outlined the most common features of this type of scam.

If presented with this information, I think it's likely Mr P would have recognised many of these features applied to his own situation and the warnings would have resonated with him. In the circumstances, I think he'd have ultimately chosen not to proceed with the payment.

If an appropriate intervention by Revolut would have prevented Mr P from proceeding with payment 2, I think it follows that he wouldn't have instructed payments 3 and 4 either and those losses would also have been prevented.

*What about the actions of Mr P's bank?*

This was a multi-stage fraud that saw Mr P move money from his bank to Revolut and then eventually onto the scammer. This complaint is about Revolut and it's not appropriate for me to comment here on whether or not the bank should have identified he was at risk of harm from fraud and whether it reacted proportionately. But to obtain a full picture of what took place, we have contacted Mr P's bank to establish if it attempted any kind of intervention before transferring his money to Revolut and, if so, how this affects my assessment of whether or not he acted reasonably in the circumstances.

Following these enquiries, I'm satisfied there was no intervention by Mr P's bank that should have alerted him to the fact he was speaking to a scammer or the type of scam that was taking place. And given the bank didn't know the money would ultimately be moved to cryptocurrency, I don't think it had grounds to suspect he may be at risk from fraud in the same way I've concluded Revolut should have. So there's nothing about Mr P's interactions with his bank that changes my view about how Revolut should have dealt with this situation and whether he acted reasonably in the circumstances with which he was faced.

*Is it fair and reasonable for Revolut to be held responsible for some of Mr P's loss?*

In reaching my decision about what's fair and reasonable, I have taken into account that Mr P paid money using his Revolut account to another account in his own name, rather than directly to the scammer, so he remained in control of his money after he made the payments, and there were further steps before the money was lost to the scammer.

However, for the reasons I've set out above, I'm satisfied it would be fair to hold Revolut responsible for Mr P's losses from payment 2, subject to a deduction for Mr P's own contribution towards his loss. As I've explained, the potential for multi-stage scams, particularly those involving cryptocurrency, ought to have been well known to Revolut. And as a matter of good practice, I consider it fair and reasonable that Revolut should have been on the look-out for payments presenting an additional scam risk including those involving multi-stage scams.

I have also taken into account that other businesses were involved in the overall process that ended up with payments being made to the scammer, and that Mr P might potentially have a claim against them in respect of their actions (although those businesses are not a party to this complaint and so I make no finding about their role here).

Whilst the dispute resolution rules (DISP) give me the power (but do not compel me) to require a financial business to pay a proportion of an award in circumstances where a consumer has made complaints against more than one financial businesses about connected circumstances, Mr P has not referred a complaint about any other business to me and DISP does not empower me to instruct him to make or refer a complaint to me about another business.

Revolut has argued in submissions to our service that we are applying the provisions of the Contingent Reimbursement Model Code (CRM Code) to complaints against it, despite it not being a signatory and in circumstances where the CRM Code would not, in any case, apply. It's also argued that the Payment Service Regulator's ("PSR") recently introduced mandatory reimbursement scheme would not require Revolut to reimburse the consumer in this situation.

I do not seek to treat Revolut as if it were a signatory to the CRM Code. I've explained in some detail the basis on which I think, fairly and reasonably, it ought to have identified Mr P was at risk of financial harm from fraud and taken further steps before payment 2 debited his account.

I'm also aware that the Payment Service Regulator's ("PSR") mandatory reimbursement scheme wouldn't require Revolut to reimburse Mr P.

The PSR's proposals weren't in place at the time of payment 2 and it's not relevant to my decision about what's fair and reasonable in this complaint. But I don't consider the fact that the PSR doesn't propose to make it compulsory for payment service providers to reimburse consumers who transfer money to an account in their own name as part of a multi-stage fraud, means that Revolut shouldn't compensate Mr P in circumstances where it failed to act

fairly and reasonably, as I have found was the case here. Indeed, the PSR has recently reminded firms that fraud victims have a right to make complaints and refer them to the Financial Ombudsman Service that exists separately from the intended reimbursement rights and that APP scam victims will still be able to bring complaints where they believe that the conduct of a firm has caused their loss (in addition to any claim under the reimbursement rules).

I do not consider it to be relevant that the circumstances here do not fall under the specific definition of an APP scam set out in the CRM Code, mandatory reimbursement scheme and DISP rules. Those definitions define the scope of the redress schemes and eligibility of payers to complain. They don't preclude me from considering whether Revolut failed to act fairly and reasonably when it made payment 2 without providing an appropriate warning to Mr P. So, I'm satisfied Revolut should fairly and reasonably have provided a warning or made further enquiries before processing the payment. If it had, it's more likely than not that the scam would have been exposed and Mr P wouldn't have lost any more money. In those circumstances I am satisfied it is fair to hold Revolut responsible for at least some of Mr P's loss.

*Should Mr P bear any responsibility for his losses from payments 2, 3 and 4?*

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. I've considered the evidence carefully and, while I accept Mr P believed these payments were being made in connection with a legitimate investment opportunity, I'm not persuaded that belief was a reasonable one.

In particular, I'm conscious the evidence provided appears to show he was being led to believe he'd made extremely high returns on his initial investment by the time he asked to withdraw and I think he should reasonably have questioned whether this was too good to be true. In addition, he was told payments 2, 3 and 4 were fees that he needed to pay to obtain those returns. There's no indication he'd been told about fees to withdraw previously and in the circumstances, I think he ought to have proceeded only with great caution. If he'd carried out any further research, for example online searches, I think he'd have quickly discovered his circumstances were similar to those commonly associated with investment fraud.

Overall, I think it's fair and reasonable for Revolut to make a 50% deduction from the redress payable in recognition of Mr P's contribution to his loss.

*Recovery of funds*

I've also looked at whether Revolut took the steps it should have once it was aware that the payments the result of fraud.

I understand Mr P first notified Revolut of the fraud on 24 July 2023, nearly a month after the last payment. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery. I'm also conscious that Mr P transferred funds to a legitimate cryptocurrency account in his own name. From there, he purchased cryptocurrency and moved it onto a wallet address of his choosing (albeit on the scammers' instructions). If Revolut tried to recover the funds, it could only have tried to do so from Mr P's own account and it appears all the money had already been moved on and, if not, anything that was left would still have been available to him to access. So I don't think anything that Revolut could have done differently would have led to these payments being successfully recovered.

*In conclusion*



For the reasons I've explained, I don't think Revolut acted fairly and reasonably in its dealings with Mr P and I'm upholding this complaint in part.

### **Putting things right**

The principal aim of any award I make must be to return Mr P to the position he'd now be in but for the errors or inappropriate actions of Revolut, while allowing for any responsibility he should reasonably bear. If Revolut had carried out an appropriate intervention as I've described, I'm satisfied the scam would have been stopped and Mr P would have retained the money that was lost.

I'm conscious most of payment 2 was refunded to Mr P by the cryptocurrency provider and it's not clear if the shortfall in the amount returned was actually lost to the scam or represents charges applied by the provider or a trading loss incurred before the money was returned. But either way, it does appear this money was lost and wouldn't have been if Revolut had intervened to prevent the payment being made in the first place. I therefore believe it's fair for Revolut to compensate Mr P appropriately.

To put things right, Revolut should pay Mr P compensation of  $A + B + C$ , where:

- $A = £8,668.69$ , representing 50% of the loss from payments 2 to 4 after taking account of the part of payment 2 that was refunded;
- $B$  = simple interest on £3,668.69 (50% of the part of payments 2 and 3 that was lost) at 8% per year from 29 June 2023 to the date compensation is paid; and
- $C$  = simple interest on £5,000 (50% of the loss from payment 4) at 8% per year from 30 June 2023 to the date compensation is paid.

Interest is intended to compensate Mr P for the period he was unable to use this money. HM Revenue & Customs (HMRC) requires Revolut to deduct tax from any interest. It must provide Mr P with a certificate showing how much tax has been deducted if he asks for one.

I'm satisfied this represents a fair and reasonable settlement of this complaint.

### **My final decision**

My final decision is that I partly uphold this complaint. Subject to Mr P's acceptance, Revolut Ltd should now put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 12 February 2025.

James Biles  
**Ombudsman**