

The complaint

Mrs K is complaining about Revolut Ltd because it declined to refund money she lost as a result of fraud.

What happened

Sadly, Mrs K fell victim to a job scam after she was approached on WhatsApp. She was told the job involved completing app optimisation tasks for which she'd be paid. But to access the tasks, she needed to pay in cryptocurrency. Over the course of a few days, the scammer introduced her to the job and how it worked and guided her through the process of setting up cryptocurrency trading accounts.

Mrs K already had an account with Revolut. She made the following payments to cryptocurrency accounts in her own name that were then paid on to the scammers:

No.	Date	Time	Type	Payee	Amount £
1	10 Aug 2023	11.56	Transfer	Crypto provider 1	800
2	10 Aug 2023	17.34	Card payment	Crypto provider 2	2,030
3	10 Aug 2023	19.54	Card payment	Crypto provider 2	4,100
4	10 Aug 2023	20.31	Card payment	Crypto provider 2	4,500
5	10 Aug 2023	20.34	Card payment	Crypto provider 2	3,800

Each of these payments was funded by a transfer into Mrs K's Revolut account from a bank account in her husband's name for an equivalent amount.

Our investigator recommended the complaint be partly upheld. He felt that by the time of payment 3, Revolut should have identified Mrs K may be at risk of harm from fraud and contacted her to find out more about the purpose of the payment. If it had done, he felt the scam would have been uncovered and payments 3 to 5 would have been prevented. He proposed Revolut should refund these payments with a 50% deduction to recognise that Mrs K should bear some responsibility for her loss.

Mrs K accepted the investigator's assessment. Revolut didn't and made the following key points:

- The payments went to an account in Mrs K's own name and not directly to the scammer. It was merely an intermediary link in this process.
- Payment 1 did generate educational stories and a scam warning.

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 Mrs K authorised the above payments.

In broad terms, the starting position at law is that 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 Mrs K 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).

With respect to the card payments, Revolut was required by the terms of its contract to refuse payments in certain circumstances, including to comply with regulatory requirements such as the Financial Conduct Authority's Principle for Businesses 6, which required financial services firms to pay due regard to the interests of their customers and treat them fairly. I am satisfied that paying due regard to the interests of its customers and treating them fairly meant Revolut should have been on the look-out for the possibility of fraud and refused card payments in some circumstances to carry out further checks. In practice Revolut did in some instances refuse or delay payments at the time where it suspected its customer might be at risk of falling victim to a scam.

I must also take into account that the basis on which I am required to decide complaints is broader than the simple application of contractual terms and the regulatory requirements

referenced in those contractual terms. I must determine the complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case (DISP 3.6.1R) taking into account the considerations set out at DISP 3.6.4R.

Whilst the relevant regulations and law (including the law of contract) are both things I must take into account in deciding this complaint, I'm also obliged to take into account regulator's guidance and standards, relevant codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time: see DISP 3.6.4R. So, in addition to taking into account the legal position created by Revolut's standard contractual terms, I also must have regard to these other matters in reaching my decision.

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 August 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;¹
- 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.

For example, it is my understanding that in August 2023, Revolut, whereby if it identified a scam risk associated with a card payment through its automated systems, could (and sometimes did) initially decline to make that payment, in order to ask some additional questions (for example through its in-app chat)

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).
- 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

¹ 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/

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 Code², 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).
- Since 31 July 2023, under the FCA's Consumer Duty³, regulated firms (like Revolut) must act to deliver good outcomes for customers (Principle 12) and must avoid causing foreseeable harm to retail customers (PRIN 2A.2.8R). Avoiding foreseeable harm includes ensuring all aspects of the design, terms, marketing, sale of and support for its products avoid causing foreseeable harm (PRIN 2A.2.10G). One example of foreseeable harm given by the FCA in its final non-handbook guidance on the application of the duty was *"consumers becoming victims to scams relating to their financial products for example, due to a firm's inadequate systems to detect/prevent scams or inadequate processes to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers"*⁴.
- 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
- The main card networks, Visa and Mastercard, don't allow for a delay between receipt of a payment instruction and its acceptance: the card issuer has to choose straight away whether to accept or refuse the payment. They also place certain restrictions on their card issuers' right to decline payment instructions. The essential effect of these restrictions is to prevent indiscriminate refusal of whole classes of transaction, such as by location. The network rules did not, however, prevent card issuers from declining particular payment instructions from a customer, based on a

² BSI: PAS 17271: 2017" Protecting customers from financial harm as result of fraud or financial abuse"

³ Prior to the Consumer Duty, FCA regulated firms were required to "pay due regard to the interests of its customers and treat them fairly." (FCA Principle for Businesses 6). As from 31 July 2023 the Consumer Duty applies to all open products and services.

⁴ The Consumer Duty Finalised Guidance FG 22/5 (Paragraph 5.23)

perceived risk of fraud that arose from that customer's pattern of usage. So it was open to Revolut to decline card payments where it suspected fraud, as indeed Revolut does in practice.

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 August 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;
- 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; and
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so; and
- 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 Mrs K.

This analysis is focussed on the situation regarding card payments 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 transfers 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 Mrs K was at risk of financial harm from fraud?

One of the key features of a Revolut account is that it facilitates payments that often involve large amounts. After considering the circumstances of payments 1 and 2, including the amounts involved, I don't think there were sufficient grounds for Revolut to think that Mrs K was at risk of financial harm from fraud when she made the payments. So, I can't say it was at fault for processing them in line with the her instructions.

But by the time of payment 3, Mrs K had instructed three payments totalling nearly £7,000 in just a few hours. Further, Revolut knew this money was 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 that Revolut should have recognised that payments to cryptocurrency carried a higher risk of being associated with fraud.

With these points in mind, I think Revolut should have identified by the time of payment 3 that Mrs K could be at risk of harm from fraud and taken appropriate steps to intervene.

What did Revolut do to warn Mrs K?

Prior to processing payment 1, and as this was a transfer to a new payee, Revolut says it showed Mrs K the following warning:

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 says it also showed Mrs K a series of educational story messages to warn her about the risks associated with the payment. If she still wanted to go ahead after seeing these messages, Mrs K was then required to confirm that she wished to proceed.

In respect of the subsequent card payments (payments 2 to 5), Revolut has confirmed that no warnings were provided or other intervention attempted.

What kind of warning should Revolut have provided?

I've thought carefully about the sort of warnings Revolut should have provided in view of the risks presented by each payment. As I've said, I don't think payments 1 and 2 should have caused any particular concerns. Revolut did provide some warnings before processing payment 1 but they were generic in nature. The educational stories didn't speak to the particular scam taking place and I don't think they'd have particularly resonated with Mrs K as a result.

For the reasons I've explained, I think payment 3 is the point at which Revolut should have intervened further. Having thought carefully about the risk this payment presented, I think a proportionate response to that risk would have been for Revolut to have attempted to establish the circumstances surrounding the payment before allowing it to debit Mrs K's account. I think it should have done this by, for example, directing her to its in-app chat to discuss the payment further.

If Revolut had provided a warning of the type described, would that have prevented the losses Mrs K suffered from payment 3?

If Revolut had asked Mrs K about the reasons for the payment, I've no basis to believe she wouldn't have been honest about what it was ultimately for. I've reviewed the history of her online chats with the scammer and I've not found anything to indicate she was told to lie if asked about this.

Revolut should have been familiar with the common features of many job scams. If it had been able to establish Mrs K was paying to work online, I think it would have been able to provide a clear and tailored warning setting out these common features. For example, that victims are often approached online or through social media by people they've never met, who then guides them through the set up process, including establishing a cryptocurrency account from which they need to make payments to obtain work, and then continually asks them to pay more and higher amounts.

If Mrs K had received such a warning, I think she'd have recognised her own situation and it would have resonated with her. So I think the type of intervention I've described would have led to the scam being uncovered and the payment prevented. I think it follows that if the scam had been uncovered at the point of payment 3, payments 4 and 5 would also have been prevented.

The earlier stage of the fraud?

This was a multi-stage fraud that saw money moved from a bank account to Revolut and then eventually onto the scammer. In this case, the money was paid to Revolut from an account in the name of Mrs K's husband.

This complaint is about Revolut and it's not appropriate for me to comment here on whether or not the husband's bank should have identified a risk of fraud and whether it reacted proportionately. And in any event, the payments would have been instructed by Mrs K's husband and he'd have seen any warnings that were given. As such, I don't think there was any prior intervention that should particularly have alerted Mrs K to the fact she was speaking to a scammer or that changes my views about how Revolut should have dealt with this situation and whether she acted reasonably in the circumstances with which she was faced.

Is it fair and reasonable for Revolut to be held responsible for some of Mrs K's loss?

In reaching my decision about what's fair and reasonable, I have taken into account that Mrs K paid money using her Revolut account to another account in her own name, rather than directly to the scammer, so she remained in control of the money after she 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 Mrs K's loss from payment 3, subject to a deduction for her own contribution towards this. 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 Mrs K 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, Mrs K has not referred a complaint about any other business to me and DISP does not empower me to instruct her 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 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 Mrs K was at risk of financial harm from fraud and taken further steps before payment 3 debited her account.

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

The PSR's proposals weren't in place at the time of payment 3 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 Mrs K 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 3 without providing an appropriate warning to Mrs K. 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 Mrs K 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 her loss.

Should Mrs K 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.

I've considered the evidence carefully and, while I accept Mrs K genuinely believed these payments were being made in connection with a legitimate employment opportunity, I'm not persuaded that belief was an entirely reasonable one.

The arrangement between Mrs K and the 'employer' was very different to the normal employer-employee relationship. In most circumstances, people expect to be paid by their employer, rather than the other way around. I'm also conscious that the potential rewards being promised were extremely high for the nature of the work and should perhaps have been viewed as being too good to be true.

In the circumstances, I think Mrs K ought to have proceeded only with great caution. If she had carried out any further research, for example online searches, I think she'd have quickly discovered her circumstances were similar to those commonly associated with many job scams. Overall, I think it's fair and reasonable for Revolut to make a 50% deduction from the redress payable.

Recovery of funds

I've also looked at whether Revolut could or should have done more to try and recover Mrs K's losses once it was aware that the payments were the result of fraud.

Mrs K transferred funds to legitimate cryptocurrency accounts in her own name. From there, she purchased cryptocurrency and moved it onto a wallet address of her choosing (albeit on the scammers' instructions). If Revolut tried to recover the funds, it could only have tried to do so from Mrs K'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 her to access.

In addition, I understand Mrs K first notified Revolut of the fraud on 17 August 2023, a week after the payments on 10 August. 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. 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 Mrs K and I'm upholding this complaint in part. While I don't think it acted incorrectly in processing payments 1 and 2 in line with Mrs K's instructions, if it had carried out an appropriate intervention before payment 3 debited her account, I'm satisfied payments 3 to 5 would have been prevented.

Putting things right

The principal aim of any award I make must be to return Mrs K to the position she'd now be in but for the errors or inappropriate actions of Revolut, while allowing for any responsibility she 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 Mrs K would have retained the money that was lost from payment 3 onwards. As outlined above, I've applied a 50% deduction to the amounts to be refunded in recognition of Mrs K's own contribution toward the loss.

To put things right, Revolut should pay Mrs K compensation of A+ B, where:

- A = a refund of 50% of payments 3, 4 and 5 outlined above; and
- B = simple interest on each amount being refunded in A at 8% per year from 10 August 2023 to the date compensation is paid.

Interest is intended to compensate Mrs K for the period she was unable to use this money. HM Revenue & Customs (HMRC) requires Revolut to deduct tax from any interest. It must provide Mrs K with a certificate showing how much tax has been deducted if she 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 Mrs K'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 Mrs K to accept or reject my decision before 5 March 2025.

James Biles
Ombudsman