

The complaint

Miss B complains that Revolut Ltd (Revolut) is refusing to refund her the amount she lost as the result of a scam.

What happened

Miss B was looking for a part time job online when she was contacted via WhatsApp by an individual claiming to be from Amazon (X).

X explained that she was able to offer Miss B an online part time job that would take 0-50 minutes each day to complete. The job involved taking and submitting online orders, and Miss B would earn around £60-80 per day, £600 for seven days and £3,000 for 30 days.

Interested in the opportunity Miss B continued the conversation with X. X explained to Miss B that she would have to complete 40 tasks before making a withdrawal and that occasionally Miss B would receive a lucky bonus where her account would go into a negative and must be topped up by her, but when this happened Miss B would be able to earn significantly more money.

Miss B started the job and soon came across the lucky bonuses X had described and was required to top up her account. But after topping up her account Miss B continued to receive lucky bonuses and was required to top up the account with ever increasing amounts.

X walked Miss B through the various processes of setting up accounts in relation to the job and sending funds across via WhatsApp, often asking Miss B to provide screenshots of the screens she was seeing and directing her with which buttons to press.

Throughout the scam Miss B had concerns and, on several occasions, threatened to call the police. She also often refused to make further payments. But overall X was able to convince Miss B that the job was legitimate, often by seemingly lending Miss B funds to help towards the payments and offering to sell her own personal belongings.

Although Miss B had reservations about making payments, she continued to make them, often borrowing the funds from friends and family.

Miss B made the following payments in relation to the scam:

Payment	Date	Payee	Payment Method	Amount
1	17 September 2023	Money/mercuryo.io	Debit Card	£51
2	17 September 2023	Money/mercuryo.io	Debit Card	£25
3	18 September 2023	Money/mercuryo.io	Debit Card	£160
4	19 September 2023	Money/mercuryo.io	Debit Card	£300
5	26 September 2023	Money/mercuryo.io	Debit Card	£650
6	26 September 2023	Money/mercuryo.io	Debit Card	£1,100
7	26 September 2023	Moonpay*trustwallet 4665	Debit Card	£500
8	26 September 2023	Moonpay*trustwallet 7364	Debit Card	£490
9	27 September 2023	Moonpay*trustwallet 6349	Debit Card	£1,500
10	30 September 2023	Moonpay*trustwallet 5375	Debit Card	£1,500
11	3 October 2023	Simplex_nevadaex	Debit Card	£500
12	5 October 2023	Mercuryo	Debit Card	£1,000
13	8 October 2023	transak.com	Debit Card	£1,000
14	9 October 2023	transak.com	Debit Card	£1,000
15	9 October 2023	transak.com	Debit Card	£1,000
16	9 October 2023	transak.com	Debit Card	£1,000
17	10 October 2023	transak.com	Debit Card	£1,000
18	10 October 2023	transak.com	Debit Card	£300
19	10 October 2023	transak.com	Debit Card	£1,000
20	10 October 2023	transak.com	Debit Card	£300

In my provisional decision sent on 25 October 2024 I explained why I thought this complaint should be upheld. I said:

“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 Miss 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".

In this respect, section 20 of the terms and conditions said:

"20. When we will refuse or delay a payment

We must refuse to make a payment or delay a payment (including inbound and outbound payments) in the following circumstances:

- 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 Miss B and the Payment Services Regulations to carry out their instructions promptly, except in the circumstances expressly set out in its contract, which included where regulatory requirements meant it needed to carry out further checks.

I am satisfied that, to comply with regulatory requirements (including the Financial Conduct Authority's "Consumer Duty", which requires financial services firms to act to deliver good outcomes for their customers) Revolut should in September and October 2023 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.

So, Revolut's standard contractual terms produced a result that limited the situations where it could delay or refuse a payment – so far as is relevant to this complaint – to those where applicable regulations demanded that it do so, or that it make further checks before proceeding with the payment. In those cases, it became obliged to refuse or delay the payment. And, I'm satisfied that those regulatory requirements included adhering to the FCA's Consumer Duty.

The Consumer Duty – as I explain below – requires firms to act to deliver good outcomes for consumers.

Whilst the Consumer Duty does not mean that customers will always be protected from bad outcomes, Revolut was required to act to avoid foreseeable harm by, for example, operating adequate systems to detect and prevent fraud. The Consumer Duty is therefore an example of a regulatory requirement that could, by virtue of the express terms of the contract and depending on the circumstances, oblige Revolut to refuse or delay a payment notwithstanding the starting position at law described in Philipp.

I have taken both the starting position at law and the express terms of Revolut's contract into account when deciding what is fair and reasonable. I am also mindful that in practice, whilst its terms and conditions referred to both refusal and delay, the card payment system rules meant that Revolut could not in practice delay a card payment, it could only decline ('refuse') the payment.

But 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.

Looking at what is fair and reasonable on the basis set out at DISP 3.6.4R, I consider that Revolut should in September and October 2023 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.

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;*
- *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 September and October 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).

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 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*

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/

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 customers' 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 cryptocurrency⁵ 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 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 (see above).*

Overall, taking into account relevant law, regulators rules and guidance, relevant codes of

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)

⁵ Keeping abreast of changes in fraudulent practices and responding to these is recognised as key in the battle against financial crime: see, for example, paragraph 4.5 of the BSI Code and PRIN 2A.2.10(4)G.

practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in September and October 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 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;*
- 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); and*
- 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.*

Whilst I am required to take into account the matters set out at DISP 3.6.4R when deciding what is fair and reasonable, I am satisfied that to comply with the regulatory requirements that were in place in September and October 2023, Revolut should in any event have taken these steps.

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

By September and October 2023, when these transactions took place, firms like Revolut had been aware of the risk of multi-stage scams involving cryptocurrency for some time. Scams involving cryptocurrency have increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency scams have continued to increase since. They reached record levels in 2022. During that time, cryptocurrency was typically allowed to be purchased through many high street banks with few restrictions.

By the end of 2022, however, many of the high street banks had taken steps to either limit their customers' ability to purchase cryptocurrency using their bank accounts or increase friction in relation to cryptocurrency related payments, owing to the elevated risk associated with such transactions⁶. And by September and October 2023, when these payments took place, further restrictions were in place⁷. This left a smaller number of payment service providers, including Revolut, that allow customers to use their accounts to purchase cryptocurrency with few restrictions.

I recognise that, as a result of the actions of other payment service providers, many customers who wish to purchase cryptocurrency for legitimate purposes will be more likely to use the services of an EMI, such as Revolut. And I'm also mindful that the vast majority of cryptocurrency purchases made using a Revolut account will be legitimate and not related to

⁶ See for example, Santander's limit of £1,000 per transaction and £3,000 in any 30-day rolling period introduced in November 2022.

NatWest Group, Barclays, Lloyds Banking Group and Santander had all introduced some restrictions on specific cryptocurrency exchanges by August 2021.

⁷ In March 2023, Both Nationwide and HSBC introduced similar restrictions to those introduced by Santander in November 2022.

any kind of fraud (as Revolut has told our service). However, our service has also seen numerous examples of consumers being directed by fraudsters to use Revolut accounts in order to facilitate the movement of the victim's money from their high street bank account to a cryptocurrency provider.

So, taking into account all of the above I am satisfied that by the end of 2022, prior to the payments Miss B made in September and October 2023, Revolut ought fairly and reasonably to have recognised that its customers could be at an increased risk of fraud when using its services to purchase cryptocurrency, notwithstanding that the payment would often be made to a cryptocurrency wallet in the consumer's own name.

In those circumstances, as a matter of what I consider to have been fair and reasonable and good practice, Revolut should have had appropriate systems for making checks and delivering warnings before it processed such payments. And, as I've set out, the introduction of the FCA's Consumer Duty, on 31 July 2023, further supports this view. The Consumer Duty requires Revolut to avoid causing foreseeable harm to its customers by, among other things, having adequate systems in place to detect and prevent scams.

Taking all of the above into account, and in light of the increase in multi-stage fraud, particularly involving cryptocurrency, I don't think that the fact the payments in this case were most likely going to an account held in Miss B's own name should have led Revolut to believe there wasn't a risk of fraud. So, I've gone on to consider, taking into account what Revolut knew about the payments, at what point, if any, it ought to have identified that Miss B might be at a heightened risk of fraud.

The first payments Miss B made in relation to the scam were for relatively low values. It wouldn't be reasonable for me to suggest that Revolut should consider every payment made by its customers to be risky.

However, when Miss B made payment 16 for the value of £1,000 it was the third payment she had made in the same day for the same amount to a crypto exchange, bringing the total amount Miss B sent that day to £3,000. Considering the amount Miss B was sending and the risk associated with this type of payment it is fair to say that Revolut should have recognised that Miss B was at risk of financial harm.

What did Revolut do to warn Miss B?

Miss B was required to confirm the payment via a 3DS check which confirmed it was Miss B making the payments. But other than this Revolut did not provide any interventions when Miss B attempted the payments in relation to the scam.

What kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Revolut's primary duty to make payments promptly.

As I've set out above, the FCA's Consumer Duty, which was in force at the time these payments were made, requires firms to act to deliver good outcomes for consumers including acting to avoid foreseeable harm. In practice this includes maintaining adequate systems to detect and prevent scams and to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers.

I'm mindful that firms like Revolut have had warnings in place for some time. It, along with

other firms, has developed those warnings to recognise both the importance of identifying the specific scam risk in a payment journey and of ensuring that consumers interact with the warning.

In light of the above, I think that by September and October 2023, when these payments took place, Revolut should have had systems in place to identify, as far as possible, the actual scam that might be taking place and to provide tailored, effective warnings relevant to that scam for both APP and card payments. I understand in relation to Faster Payments it already had systems in place that enabled it to provide warnings in a manner that is very similar to the process I've described.

I accept that any such system relies on the accuracy of any information provided by the customer and cannot reasonably cover off every circumstance. But I consider that by October 2023, on identifying a heightened scam risk, a firm such as Revolut should have taken reasonable steps to attempt to identify the specific scam risk – for example by seeking further information about the nature of the payment to enable it to provide more tailored warnings.

In this case, Revolut knew that payment 16 was the third payment Miss B had made on the same day and that it was being made to a cryptocurrency provider. So, its systems ought to have factored that information into a warning it gave.

Revolut should also have been mindful that cryptocurrency scams have become increasingly varied over the past few years. Fraudsters have increasingly turned to cryptocurrency as their preferred way of receiving victim's money across a range of different scam types, including 'romance', impersonation, job and investment scams.

Taking that into account, I am satisfied that, by October 2023, Revolut ought to have attempted to narrow down the potential risk further. I'm satisfied that when Miss B made payment 16, Revolut should – for example have asked a series of automated questions designed to narrow down the type of cryptocurrency related scam risk associated with the payment she was making and have provided a scam warning tailored to the likely cryptocurrency related scam Miss B was at risk from.

In this case, Miss B was falling victim to a 'job scam' – she believed she was making payments in order to receive an income.

As such, I'd have expected Revolut to have asked a series of simple questions in order to establish that this was the risk the payment presented. Once that risk had been established, it should have provided a warning which was tailored to that risk and the answers Miss B gave. I'd expect any such warning to have covered off key features of such a scam, such as making payments to gain employment, being paid for 'clicks', 'likes' or promoting products and having to pay increasingly large sums without being able to withdraw money. I acknowledge that any such warning relies on the customer answering questions honestly and openly, but I've seen nothing to indicate that Miss B wouldn't have done so here.

If Revolut had provided a warning of the type described, would that have prevented the losses Miss B suffered from payment 16?

I think that a warning of the type I've described would have identified that Miss B's circumstances matched an increasingly common type of scam.

The circumstances of the scam outlined above are very common in relation to job scams. If Revolut had provided an adequate warning to Miss B who already had concerns about the payments she was making I think it's most likely she would not have continued with payment

16, or any further payments.

Is it fair and reasonable for Revolut to be held responsible for Miss B's loss?

In reaching my decision about what is fair and reasonable, I have taken into account that Miss B purchased cryptocurrency which credited an e-wallet held in her own name, rather than making a payment directly to the fraudsters. So, she remained in control of her money after she made the payments from her Revolut account, and it took further steps before the money was lost to the fraudsters.

Revolut argues that it is 'only' an intermediate link in a chain of transactions, and consideration must be given to the other parties involved in the multi-stage fraud to determine overall responsibility for the loss suffered by Miss B.

I have considered these representations carefully, but Miss B has only complained against Revolut. I accept that it's possible that other firms might also have missed the opportunity to intervene or failed to act fairly and reasonably in some other way, and Miss B could instead, or in addition, have sought to complain against those firms.

But Miss B has not chosen to do that and ultimately, I cannot compel her to. In these circumstances, I can only make an award against Revolut.

As I have explained, I am satisfied that Revolut ought, taking reasonable steps, to have prevented payment 16 onwards. If it had done so, I am satisfied it is more likely than not that it would have prevented the loss Miss B suffered as a consequence from that point onwards. So, I am satisfied that the starting point is that it's fair to require it to compensate Miss B for those losses it could have prevented by taking reasonable steps.

Whilst it is open to me to inform a complainant it might be appropriate to complain against another respondent, I do not consider it necessary or appropriate for me to do that in this case – I haven't seen evidence that persuades me that I should exercise my discretion to do this; Miss B is aware that she could also have attempted to complain against her other bank and Revolut could itself have informed Miss B that another firm might also be responsible (and why) when she first complained (see DISP 1.7.1R).

Should Miss B bear any responsibility for her losses?

I've thought about whether Miss B should bear any responsibility for her loss from payment 16 onwards. In doing so, I've considered what the law says about contributory negligence, as well as what I consider to be fair and reasonable in all of the circumstances of this complaint including taking into account Miss B's own actions and responsibility for the losses she has suffered.

In the circumstances, I do think it would be fair to reduce compensation by 50% on the basis that Miss B should share blame for what happened. I say this because Miss B was being asked to make payments as part of her employment, which is highly unusual.

Miss B also started a new job, without receiving any type of employment contract, that offered a salary that appeared too good to be true given the limited time she had to commit. I think the above should have been red flags to Miss B and she should have taken more care.

Had Miss B taken more care she could also have prevented her loss."

I gave Miss B and Revolut time to respond to my provisional decision. Miss B accepted my decision.

Revolut didn't provide a response within the time allowed.

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.

Neither Miss B nor Revolut provided any new arguments or evidence following my provisional decision. So, I see no reason to come to a different decision to that explained above.

Putting things right

To put things right I require Revolut Ltd to:

- Refund 50% of the payments Miss B made in relation to the scam from payment 16 onwards
- Add 8% simple interest per year to the amount it pays Miss B from the date of loss to the date it makes the payment. (Less any lawfully deductible tax)

Miss B has explained that she borrowed some of the money she used in relation to the scam from friends and family so interest would only be payable from the time she paid those funds back.

Miss B should provide whatever evidence Revolut asks for in order for it to calculate the interest owed.

My final decision

My final decision is that I uphold this complaint and require Revolut Ltd to put things right by doing what I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 10 December 2024.

Terry Woodham
Ombudsman