

The complaint

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

What happened

Mrs H tells us she was called by a scammer I will call "X" from a withheld phone number. X explained that it was calling from NatWest where Mrs H held an account. X asked Mrs H if she had made payments from that account to specific retailers. Mrs H said she hadn't.

X went on to explain it would stop the payments from debiting Mrs H's account and provided her with a number to call back on to discuss the fraud. X also gave Mrs H a reference number to quote during the call.

Mrs H says she checked the number online before calling it and found it to be a "Neutral number, which she said made her think it was a "special number".

Mrs H then called the number as instructed in the first call and was told that her account had been compromised. She was asked a series of questions, such as had she clicked on any links in emails or given passwords to anyone. Mrs H was also asked if her husband could have done the same.

X told Mrs H that she would need to setup a new account with Revolut and send the funds from her compromised account with NatWest to that account to keep them safe, which she did.

X then instructed Mrs H to transfer the funds from the Revolut account to an account in an individual's name as part of the process of protecting the funds. Mrs H followed these instructions.

Over the following days X contacted Mrs H again and asked details of any other accounts she held elsewhere. After receiving this information X persuaded Mrs H that these accounts were also compromised and that she should move the funds in the same way she had previously, firstly to her NatWest account, then to the new Revolut account, and on to an account in an individual's name. Mrs H complied with the request and in total made the following payments from her newly opened Revolut account:

Payment	Date	Payee	Payment Method	Amount
	26 February 2022	From Mrs H	Transfer	£18,000cr
1	26 February 2022	Individual	Transfer	£18,000
	28 February 2022	From Mrs H	Transfer	£15,000cr
2	28 February 2022	Individual	Transfer	£15,000
	1 March 2022	From Mrs H	Transfer	£20,000cr
3	1 March 2022	Individual	Transfer	£19,995

In my provisional decision sent on 26 November 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 Mrs H 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 Mrs H and the Payment Services Regulations to carry out their instructions promptly, except in the circumstances set out in its contract, which included where regulatory requirements meant it needed to carry out further checks.

Whether or not Revolut was required to refuse or delay a payment for one of the reasons set out in its contract, the basic implied requirement to carry out an instruction promptly did not

in any event mean Revolut was required to carry out the payments immediately¹. 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 February 2022 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;²*
- requiring consumers to provide additional information about the purpose of transactions during the payment authorisation process;*
- using the confirmation of payee system for authorised push payments;*
- providing increasingly tailored and specific automated warnings, or in some circumstances human intervention, when an increased risk of fraud is identified.*

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

- Electronic Money Institutions like Revolut are required to conduct their business with “due skill, care and diligence” (FCA Principle for Businesses 2), “integrity” (FCA Principle for Businesses 1) and a firm “must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems” (FCA Principle for Businesses 3)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 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.*

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

² 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/

³ 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.

- *The October 2017, BSI Code⁴, 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 February 2022 that Revolut should:

- *have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;*
- *have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;*
- *in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice Revolut sometimes does).*

Should Revolut have recognised that Mrs H was at risk of financial harm from fraud?

It isn't in dispute that Mrs H has fallen victim to a cruel scam here, nor that she authorised the disputed payments she made from her Revolut account that ultimately ended up in the hands of the scammer.

Mrs H's Revolut account was newly opened for the scam, so Revolut had no sense of what typical account activity for her was – in the same way that NatWest, as her current account provider, is likely to have had. All the activity on her Revolut account was related to the scam.

However, Mrs H started to use her Revolut account the same day it was setup to receive and send significantly large payments that almost completely drained the account of funds each time a transfer was made.

I think this type of activity should have caused Revolut to have concerns about the activity on Mrs H's account and the payments she was making, and these concerns ought to have prompted a warning.

What did Revolut do to warn Mrs H and what should it have done?

When Mrs H setup a new payee from her Revolut account she received 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."

⁴ BSI: PAS 17271: 2017" Protecting customers from financial harm as result of fraud or financial abuse.

Revolut also declined the first transfer Mrs H attempted to make from her account and provided the following warning:

“Our systems have identified your transaction as highly suspicious. We declined it to protect you. If you decide to make the payment again anyway, you can, and we won’t decline it. As we have warned you this transaction is highly suspicious and to not make the payment, if the person you pay turns out to be a fraudster, you may lose all your money and never get it back. You can learn more about how to assess this payment and protect yourself from this link: <https://takefive-stopfraud.org.uk/>”

Mrs H continued to make the payments having received the warnings above.

Overall, I can’t agree that the warnings provided were a proportionate response to the risk that the significantly high value payment (1) presented. While I accept that Revolut has attempted some steps to prevent harm from fraud, the warnings it provided were too generic to have the necessary impact.

Having thought carefully about the risk payment 1 presented, I think a proportionate response to that risk would be for Revolut to have attempted to establish the circumstances surrounding the payment before allowing it to debit Mrs H’s account. I think it should have done this by, for example, directing Mrs H 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 H suffered from the first payment?

It doesn’t appear that any of the other account providers that funds were sent from provided a meaningful intervention throughout the scam.

Although Mrs H was told not to tell anyone what the payments she was making were for and to ignore any warnings it doesn’t appear she was provided with an elaborate cover story by X about what she should say had it intervened.

Had Revolut asked Mrs H probing questions around the reason she was making the first payment as I think it should have, I think it’s likely it would have uncovered she was being asked to move money to her new account with Revolut, and then on to another account to protect those funds.

I say this because it doesn’t appear that Mrs H was provided with an elaborate backstory to provide to Revolut when making the payments and it would have been difficult for her to justify the reason for the payments.

While Mrs H acknowledges that she was asked to give misleading answers had she been asked, neither NatWest nor Revolut appear to have provided a sufficient warning to her that addressed the risk of safe account scams. So, it’s not clear that she would have lied had she been questioned or whether in light of a sufficient warning about safe account scams she would have decided to keep lying.

If Revolut had intervened appropriately by I think it would have immediately recognised that Mrs H was falling victim to a scam, and it would have been able to provide her with a very clear warning. Given that Mrs H had no desire to lose her money and nothing to gain from going ahead with the payments, it’s very likely that she would have stopped, not followed X’s instructions. So, her loss would have been prevented.

Should Mrs H bear any responsibility for her loss?

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

Having considered the matter carefully, I don't think that there should be any deduction from the amount reimbursed.

Mrs H was called by X who was claiming to be from her trusted bank stating that her accounts were compromised and that she needed to move the funds to keep them safe. This would have put a high amount of pressure on Mrs H thinking she had to take actions to keep her funds safe.

At the time the funds Mrs H had available were put aside to help fund care for her husband who was severely ill in a hospice. Mrs H has also told us that she was often isolated as she lived a fair distance from family and was awaiting an operation that would aid with her own mobility.

While Mrs H was told by X to ignore warnings when making the payments, and not to tell anyone the purpose of the payments, these instructions were coming from, what she thought, was her trusted bank. So, I don't think it was unreasonable that she continued to make the payments, especially when I consider the pressure, she was under at the time to protect her funds.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Mrs H made the disputed payments from her accounts held at another bank, to Revolut, and then on from there to the scammer.

But as I've set out in some detail above, I think that Revolut still should have recognised that Mrs H might have been at risk of financial harm from fraud when she made payment 1 and, in those circumstances, it should have provided a better intervention and warning.

Had it provided the proportionate warning I have explained it should have above I think it's likely the loss would have been prevented.

Prior to this decision our Investigator suggested that responsibility for the loss should be shared between Mrs H, Revolut and NatWest, with Mrs H accepting responsibility for 25% of the loss and Revolut and NatWest sharing responsibility for the rest.

For the complaint Mrs H made about NatWest, NatWest agreed, and that complaint has now been closed. I am no longer able to consider this complaint.

As I have decided above that Mrs H did not contribute to her loss it would not be reasonable for me to say she should be responsible for any of it. Therefore, Revolut is required to reimburse Mrs H for the remaining loss that has not been covered by NatWest, which equates to 62.5% of the total loss."

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 Revolut nor Mrs H provided anything more for me to consider in the time allowed, and Mrs H agreed with my provisional decision. As nothing new was provided for me to

consider I see no reason to come to a different decision to that explained above.

Putting things right

To put things right Revolut Ltd should pay Mrs H:

- 62.5% of the total amount she lost to the scam
- Add 8% simple interest per year to the amount it pays Mrs H from the date of the loss to the date the payment is made (less any lawfully deductible tax)

My final decision

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 Mrs H to accept or reject my decision before 10 January 2025.

Terry Woodham
Ombudsman