

## **The complaint**

Mr B complains that Revolut Limited (Revolut) is refusing to refund him the amount he lost as the result of a scam.

Mr B is being represented by a third party. To keep things simple, I will refer to Mr B throughout my decision.

## **What happened**

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr B was speaking to an individual (X) on an online dating site. Mr B appeared to be getting on with X and decided to exchange contact information so they could continue the conversation away from the dating site.

Mr B and X started to talk on WhatsApp exchanging personal details about their lives and building what appeared to be a romantic connection. Mr B told X about his personal life and family and X did the same.

X explained that she ran a successful jewellery business that she was looking to expand and after exchanging messages every day for several weeks told Mr B that she would be travelling to see him in Turkey where he was staying at the time. X said she would be transporting a large amount of gold to help expand her business.

X asked Mr B to login to her bank as she was unable to login from the location she was in at the time and gave him her information in order to do this. She asked Mr B to make a large transfer from her account in relation to the jewellery business which Mr B was able to do for her believing this was a legitimate transaction and building on the belief that X was a successful businesswoman.

Having completed the large transaction X asked Mr B to help her by making a payment in relation to the transportation of the gold as she did not have the required funds. Mr B agreed to make this transfer as he was promised by X that she would return the funds to him.

Following this payment being made X was supposed to arrive in Turkey but told Mr B that she was unable to transfer gold without paying taxes first, which she convinced Mr B to pay towards. However, following this payment being made X continued to have problems with tax payable at customs, transport costs, visa and passport costs, overstay fines etc.

It is clear from the conversations Mr B was having with X after he made the first payment that he had concerns. Mr B questioned why X would need to take gold to Turkey if the transport cost had already been paid for.

Mr B also explained that he wasn't sure X existed as all he knew is that he had met her

online and she had sent him images, some of which he knew had been manipulated, and that he had not met X in person.

Mr B asked several times for further evidence to support the need for him to make payments to her after making the first payment and receiving further requests, but this was not provided. Instead, X continued to promise Mr B that they would have a good life together and was able to convince him to make further and further payments.

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

Payment	Date	Payee	Payment Method	Amount
1	25 January 2023	Business 1	Transfer	\$30,018.48
2	6 February 2023	Individual Person	Transfer	\$10,018.01
3	6 February 2023	Individual Person	Transfer	\$10,018.01
4	8 February 2023	Individual Person	Transfer	\$10,018.00
5	8 February 2023	Individual Person	Transfer	\$12,018.12
6	10 February 2023	Individual Person	Transfer	\$3,005.40
7	16 February 2023	Individual Person	Transfer	\$5,509.91
8	20 February 2023	Individual Person	Transfer	\$3,606.48
9	23 February 2023	Individual Person	Transfer	\$2,003.60

Our Investigator considered Mr B's complaint and thought it should be upheld in part. Revolut disagreed. In summary it argued:

- It has no legal duty to prevent fraud and it must comply strictly and promptly with valid payment instructions. It does not need to concern itself with the wisdom of those instructions. This was confirmed in the recent Supreme Court judgement in the case of *Philipp v Barclays Bank UK plc* [2023] UKSC 25.
- There are no legal obligations, regulatory obligations, industry guidance, standards or codes of practice that apply to Revolut that oblige it to refund victims of authorised push payment ("APP") fraud. By suggesting that it does need to reimburse customers, it says our service is erring in law.
- Our service appears to be treating Revolut as if it were a signatory to the CRM Code.
- The funds originated from another of Mr B's accounts and that the operator of that account should have done more to prevent the scam

As an informal agreement could not be reached, the complaint has been passed to me for a final decision.

### **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.

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 Mr B modified the starting position described in *Philipp*, by expressly requiring Revolut to refuse or delay a payment *"if legal or regulatory requirements prevent us from making the payment or mean that we need to carry out further checks"*.

So, Revolut was required by the implied terms of its contract with Mr B and the Payment Services Regulations 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 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 January 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

---

<sup>1</sup> 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).

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;
- 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)<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

---

<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/)

<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”

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 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;
- 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 Mr B was at risk of financial harm from fraud?*

The first transfer Mr B made in relation to the scam was for the amount of \$30,018.48, which was much higher than other transfers he had made from his account in the previous six months and was in a foreign currency which may carry an increased risk of fraud.

With this in mind, I think Revolut should have recognised that this payment carried an increased risk of financial harm from fraud and intervened before allowing the payment to debit Mr B's account.

*What did Revolut do to warn Mr B?*

Mr B was presented with online warnings when making payments 1 and 2 as they were payments going to new payees Mr B had not previously paid.

Mr B had selected the reason for the payments to be "*paying for goods and services*". Mr B was then presented with automated warnings related to the scam risks of this type of payment. But this was not relevant to the scam he was experiencing.

Having been presented with the automated warning Mr B continued with the payments.

Revolut explained that as Mr B had confirmed payments to these payees no further warnings were provided.

*what kind of warning should Revolut have provided?*

The operator of the account Mr B transferred the funds from did not intervene when the payments were made.

Considering the value of the first payment Mr B made into the scam and the increased risk associated with the payment I think Revolut should have provided a human intervention, whether that be by phone call or a chat facility, that would have allowed it to ask Mr B specific questions about the payment.

From the information provided Mr B does not appear to have been given a cover story to tell Revolut when he was making payment 1 or any of the payments that followed, so I think it's likely he would have told Revolut the truth about the reason he was making the payment.

The circumstances of this scam were very similar to other romance scams. Mr B had met X via an online dating website, and she had gained his trust by discussing personal details of both of their lives before requesting that he help her by making substantial payments. X was unwilling to provide paperwork to support the need for the payments and Mr B had never met X in person.

Revolut would have been aware of this type of scam at the time, and I think it's most likely that if Revolut had provided a human intervention and asked Mr B relevant questions, as I think it should have, it would have uncovered the scam when Mr B made the first payment and warned him that he was likely falling victim to a common romance scam.

As the first payment Mr B made was at the beginning of his relationship with X I think it's most likely he would have taken notice of the warning and decided not to make the payment, or any further payments. I do not have enough to suggest otherwise.

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

In reaching my decision about what is fair and reasonable, I have carefully considered Revolut's view that more consideration should be put on the origin of the funds. In this case Mr B transferred funds from an account he held elsewhere to his Revolut account, and then to the scam.

But as I've set out in some detail above, I think that Revolut still should have recognised that Mr B might have been at risk of financial harm from fraud when he made the payments in relation to the scam from his Revolut account.

Mr 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 Mr B could instead, or in addition, have sought to complain against those firms. But Mr B has not chosen to do that and ultimately, I cannot compel him to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Mr B's compensation in circumstances where: he has only complained about one respondent from which he is entitled to recover his losses in full; has not complained against the other firm (and so is unlikely to recover any amounts apportioned to that firm); and where it is appropriate to hold a business such as Revolut responsible (that could have prevented the loss and is responsible for failing to do so). That isn't, to my mind, wrong in law or irrational but reflects the facts of the case and my view of the fair and reasonable position.

Ultimately, I must consider the complaint that has been referred to me (not those which haven't been or couldn't be referred to me) and for the reasons I have set out above, I am satisfied that it would be fair to hold Revolut responsible for Mr B's loss (subject to a deduction for Mr B's own contribution which I will consider below).

*Should Mr B bear any responsibility for his losses?*

In considering this point, I've considered what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

In the circumstances, I do think it would be fair to reduce compensation by 50% from payment 2 on the basis that Mr B should share responsibility for what happened.

While the methods applied by X around payment 1 were convincing with X having asked Mr B to make a payment from her own account first and having a detailed back story as to why the payment was required, as explained above I think Mr B had serious concerns around the payments that followed and despite him asking for more evidence from X to support the legitimacy of the payments being requested limited evidence was provided to him.

I think there were clear red flags surrounding the payments that Mr B himself identified yet he continued to make payments when requested without carrying out suitable due diligence.

### *Recovering the payments Mr B made*

Mr B made payments into the scam via transfer. When payments are made by transfer Revolut has limited options available to it to seek recovery. Revolut could contact the operator of the receiving account and request a refund of any remaining funds. But Mr B reported the payments sometime after they were made and, in our experience, scammers usually move funds on very quickly after they are received so I don't think it's unreasonable that this was not attempted.

### **Putting things right**

To put things right Revolut Ltd should:

- Refund payment 1 in full
- Refund 50% of the remaining payments Mr B made in relation to the scam
- Pay 8% per year simple interest per year on the amount it pays Mr B from the respective dates of loss until the date of refund

### **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 Mr B to accept or reject my decision before 6 December 2024.

Terry Woodham  
**Ombudsman**