

## The complaint

Mr N complains that Revolut Ltd did not refund a series of payments he lost to a scam

## What happened

Both parties are aware of the circumstances of the complaint, so I won't repeat them again in detail here.

In summary, Mr N fell victim of a task-based job scam, and sent the following payments from his Revolut account to a cryptocurrency wallet in his name before sending them to the scammer:

Date	Amount (£)
10/07/2023	51
11/07/2023	72
11/07/2023	42.50
11/07/2023	60
12/07/2023	133
12/07/2023	95
12/07/2023	146
13/07/2023	550
13/07/2023	60
13/07/2023	1,360
13/07/2023	1,272
13/07/2023	2,905
13/07/2023	2,600
13/07/2023	2,050
14/07/2023	2,315
15/07/2023	2,900
<b>Total</b>	<b>16,611.50</b>

Mr N started to receive special commercial tasks that cost more money to complete, and these became increasingly more expensive. However, he had to complete them in order to finish his set number of tasks to withdraw commission. He soon realised he had been the victim of a scam and raised a scam claim with Revolut, who did not agree to reimburse him.

Mr N referred the complaint to our service and our Investigator looked into it. The Investigator recommended a reimbursement from the payment of £2,050 onwards, with a reduction of 50% to account for Mr N's contribution to the loss. And they recommended 8% simple interest from the date of the transactions to the date of settlement.

Neither Revolut nor Mr N's representative agreed with the findings. Mr N's representative said, in summary, that Revolut should have provided a tailored job scam warning for the payment of £2,905 which they thought would have revealed the scam. And they felt intervention should have occurred as early as the payment of £1,272 on 13 July 2023. Revolut did not think the payments were unusual as they were going into another account in

Mr N's name that he controlled.

The complaint was referred to me and I issued a provisional decision which read as follows:

*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 N modified the starting position described in Philipp, by – among other things – expressly requiring Revolut to refuse or delay a payment "if legal or regulatory requirements prevent us from making the payment or mean that we need to carry out further checks" (section 20).*

*So Revolut was required by the 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.*

*Looking at what is fair and reasonable on the basis set out at DISP 3.6.4R, I consider that Revolut should in July 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;<sup>1</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.*

*For example, it is my understanding that in July 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)<sup>2</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*

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<sup>1</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>2</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.

*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>3</sup>, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code (and Revolut was not a signatory), but the standards and expectations it referred to represented a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now (regardless of the fact the BSI was withdrawn in 2022).*
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a cryptocurrency wallet held in the consumer's own name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet.*
- 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 practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in July 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); and*

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<sup>3</sup> BSI: PAS 17271: 2017" Protecting customers from financial harm as result of fraud or financial abuse"

- 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.

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

*I'm satisfied that Mr N fell victim to a scam and that he authorised the payments in question to a cryptocurrency wallet in his name (which were then forwarded onto the scammer). I've reviewed the payments in question and compared them to Mr N's genuine account activity to see if I think Revolut should reasonably have intervened prior to them being processed.*

*The payments were going to an established cryptocurrency provider, and I'm aware that exchanges like this generally stipulate the card used to purchase cryptocurrency must be held in the name of the account holder. I think Revolut would likely have been aware of this so could have known the payments were going to a cryptocurrency wallet held in Mr N's name.*

*By July 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 customer's 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 transactions. And by July 2023, when these payments took place, further restrictions were in place. This left a smaller number of payment service providers, including Revolut, that allowed customers to use their accounts to purchase cryptocurrency with few restrictions. These restrictions – and the reasons for them – would have been well known across the industry.*

*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 a significant majority of cryptocurrency purchases made using a Revolut account will be legitimate and not related to 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, a fact that Revolut is aware of.*

*So, taking into account all of the above I am satisfied that by the end of 2022, prior to the payments Mrs N made in July 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, good practice and to comply with regulatory requirements, Revolut should have had appropriate systems for making checks and delivering warnings before it processed such payments. And as I have explained Revolut was also required by the terms of its contract to*

refuse or delay payments where regulatory requirements meant it needed to carry out further checks.

So, I've gone onto consider, taking into account what Revolut knew about the payments, at what point, if any, it ought to have identified that Mr N might be at a heightened risk of fraud that merited its intervention.

I can see the initial payments were not of a particularly high value, and although there were multiple payments a day, I don't think they warranted an intervention from Revolut. However, by the payment of £2,905 on 13 July 2023, I think Revolut should have had concerns about the pattern and increasing value of the payments to a known cryptocurrency provider. By that point, Mr N had made five payments to cryptocurrency in just two hours, with the amounts steadily increasing over time. And it brought the total amount of attempted card payments to cryptocurrency that day to over £6,000. I therefore think that the circumstances should have led Revolut to consider that Mr N was at heightened risk of financial harm from fraud.

What kind of warning should Revolut have provided?

Revolut did not provide any warnings or interventions for the payments involved in the scam. They've said that the payments were authorised by 3DS, so Mr N therefore authorised them. However, as explained above, I think Revolut should have been on notice that Mr N was at a heightened risk of financial harm by the payment of £2,905. I therefore think a proportionate response to the risk level the payment posed would be for Revolut to establish the circumstances surrounding the payment before allowing it to debit Mr N's account. I think it would have been appropriate to refer Mr N to the in-app chat function to discuss the payment further.

If Revolut had referred Mr N to the in-app chat, would that have prevented the losses he suffered from the payment of £2,905 onwards?

Due to the type of scam Mr N fell victim to, I think basic questions from Revolut would have uncovered it. On balance, I think it would have been reasonable for Revolut to ask what the purpose of the payment was. Having considered the chat between Mr N and the scammer, as well as his testimony, I've seen nothing to indicate Mr N would not have been honest and open in his answers with Revolut had he been asked about the payments.

Had this happened, I think it's more likely Revolut would have been able to identify he was the victim of a job scam, based on the key features of the scam itself. I say this because Mr N was making payments via cryptocurrency to his employer, to unlock higher levels of commission. So, I think it's more likely Revolut missed an opportunity to meaningfully reveal the scam in the circumstances.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Mr N forwarded the funds via Revolut to a cryptocurrency wallet in her name, rather than making a payment directly to the fraudsters. So, he remained in control of her money after he made the payments from his Revolut account, and it took further steps before the money was lost to the fraudsters.

But as I've set out above, I think that Revolut still should have recognised that Mr N might have been at risk of financial harm from fraud when he made the payment of £2,905, and in those circumstances Revolut should have made further enquiries about the payment before processing it. If it had done that, I am satisfied it would have prevented the losses Mr N

suffered. The fact that the money used to fund the scam came from elsewhere and wasn't lost at the point it was transferred to Mr N's own account does not alter that fact and I think Revolut can fairly be held responsible for his loss in such circumstances. I don't think there is any point of law or principle that says that a complaint should only be considered against either the firm that is the origin of the funds or the point of loss.

I've also considered that Mr N 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 N could instead, or in addition, have sought to complain against those firms. But he 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 N's compensation in circumstances where: the consumer has only complained about one respondent from which they are entitled to recover their 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 N's loss from the payment of £2,905 onwards (subject to a deduction for his own contribution which I will consider below).

#### Should Mr N bear any responsibility for his 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.

Based on what I've seen so far, I do agree that a reduction in the redress is due in the circumstances. Mr N received a job offer via a messaging platform, without having to apply or go through any interview process, which I think he could have seen as unusual. And I can see Mr N did query the scammer in the chat, as he had concerns it could be a part of a Ponzi scheme which he had lost money to previously.

By the payment of £2,905, Mr N had been asked to pay higher and higher values for the special commercial tasks and I can see he was having concerns, so I think he could have seen this as a warning something was not right. And I think Mr N also should have seen that the offer of a job with significant levels of commission that he had to pay in cryptocurrency to be able to earn was unusual. On balance, I don't think Mr N has acted as a reasonable person would to protect himself against the loss he suffered.

With this in mind, based on what I've seen so far, I currently think a reduction in the redress of 50% would be a fair resolution to account for Mr N's contribution to the loss.

Mr N's representative responded and said they accepted the provisional findings. Revolut did not provide a response.

#### **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.

As neither party responded with any additional comments or evidence for me to consider, and Mr N accepted the provisional findings, I see no reason to depart from the findings set out in the provisional decision. So, for the reasons outlined above, I uphold Mr N's complaint in part.

### **Putting things right**

Revolut should reimburse Mr N from the payment of £2,905 onwards, and it can reduce this by 50% to account for Mr N's contribution to the loss. Revolut should also add 8% simple interest from the date of the transactions to the date of settlement.

If Revolut considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr N how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

I uphold Mr N's complaint in part and direct Revolut Ltd to pay the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 December 2024.

Rebecca Norris  
**Ombudsman**