

## The complaint

Mr F 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 F fell victim to a task-based job scam and made a number of payments from his Revolut account to purchase cryptocurrency. These were to a mixture of different cryptocurrency exchanges, payment service providers and private individuals selling cryptocurrency. He made the following payments from his Revolut account:

Payment #	Date	Amount	Payment Type
1	27/07/2023	£20	Transfer
2	1/08/2023	£70	Transfer
3	02/08/2023	£150	Transfer
4	04/08/2023	£200	Transfer
5	04/08/2023	£500	Transfer
6	05/08/2023	£225	Transfer
7	05/08/2023	£1,800	Transfer
8	07/08/2023	£1,000	Transfer
9	07/08/2023	£1,000	Transfer
10	07/08/2023	£350	Transfer
11	08/08/2023	£500	Card Payment
12	09/08/2023	£654.55	Transfer
13	10/08/2023	£704.90	Transfer
14	11/08/2023	£500	Transfer
15	11/08/2023	£1,000	Transfer
16	11/08/2023	£1,000	Transfer
17	12/08/2023	£500	Transfer
18	15/08/2023	£500	Transfer
19	15/08/2023	£505	Transfer
20	16/08/2023	£2,903.12	Transfer
21	16/08/2023	£1,000.96	Transfer
22	16/08/2023	£650	Transfer
23	17/08/2023	£2,512.21	Transfer
24	17/08/2023	£2,513.09	Transfer
25	17/08/2023	£1,534.50	Transfer
26	17/08/2023	£1,483.35	Transfer
27	17/08/2023	£30.69	Transfer
28	17/08/2023	£1,000	Transfer
29	17/08/2023	£1,000	Transfer

He realised he had been the victim of a scam and raised a scam claim with Revolut, but they

did not agree to reimburse him. The complaint was referred to our service and our Investigator felt the pattern of payments was unusual and Revolut should have intervened on the 7<sup>th</sup> payment. So, they recommend a full refund of the losses from the 7<sup>th</sup> payment onwards, as well as 8% simple interest.

Revolut responded and did not agree with the findings. They felt that the payee for the payment of £1,800 did not pose an increased level of risk. And they felt it was unlikely Mr F would have been honest had they questioned him about the payments.

I came to a slightly different outcome to the Investigator, so I issued a provisional decision that read as follows:

*I'm satisfied Mr F has been the victim of a task-based job scam and I'm sorry he's gone through this experience. As this complaint is against Revolut and not the scammer, I can only consider their actions in this decision.*

*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 F 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 F 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 July 2023 fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances (irrespective of whether it was also required by the express terms of its contract to do so).*

*In reaching the view that Revolut should have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances, I am mindful that in practice all banks and EMI's like Revolut do in fact seek to take those steps, often by:*

- using algorithms to identify transactions presenting an increased risk of fraud;<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)*
- 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*

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<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).

<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/>

*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>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).*
- Since 31 July 2023, under the FCA's Consumer Duty<sup>4</sup>, 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"<sup>5</sup>.*
- 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.*

*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*

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

<sup>4</sup> 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.

<sup>5</sup> The Consumer Duty Finalised Guidance FG 22/5 (Paragraph 5.23)

*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.*

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

*I've looked over Mr F's statements and compared the scam payments to his genuine account activity. I can see Mr F did make transfers on the account, of up to around £1,000 generally. But his usual every day transactions were for lower amounts.*

*Looking at the initial 7 payments, these were for low amounts, and I don't think they reasonably should have triggered as unusual on Revolut's systems. I've considered the fact that multiple payments were made to a new payee over the course of a few days, however I don't think this in itself is enough for me to agree Revolut should have intervened.*

*I note our Investigator felt an intervention was warranted due to the initial payee posing a higher risk, but I don't agree. The payee appears to be a payment service provider covering a range of services. With this in mind, I don't think the overall pattern or value of the 7<sup>th</sup> payment was unusual enough to warrant intervention from Revolut prior to it being processed.*

*Mr F continued to make payments over the next few days, but for relatively low values. Following this, on 11 August 2023, he attempted to make 11 payments to various cryptocurrency exchanges in the space of just 35 minutes. These payments were between £1,500 and £3,000 and were all either declined or reverted. While I appreciate these may have been declined by the merchants, I think Revolut could reasonably have seen this as unusual activity and a sign that Mr F may have been at risk of financial harm from fraud. It seems unusual for someone to attempt so many payments to cryptocurrency in such a short period of time and suggests someone may be under pressure to make a payment quickly.*

*I note that on the same evening, Mr F made three payments to a new payee in quick succession of each other, these are payments 14, 15 and 16. These were all made within 17 minutes of each other, and while the values are not particularly high, on balance I think the multiple payments in quick succession to a new payee, following the significant number of declined transactions to cryptocurrency providers should have been a sign to Revolut that Mr F may be at risk of financial harm. So, I think there should have been some form of intervention at Payment 16.*

*What did Revolut do to warn Mr F and what should it have done?*

*Revolut has shown that it did refer some of the payments for additional, light touch checks.*

*For these, Mr F was asked to select from a drop-down list what the purpose of the payments were. He selected either 'good/services' or 'other' and on balance I don't think this was unreasonable in the circumstances. Because of this, Revolut provided warnings that were not relevant to the type of scam Mr F had fallen victim to.*

*I think that by August 2023, Revolut should reasonably have had the option for Mr F to select the payment purpose as being related to his job. The type of scam Mr F fell victim to was a known type of scam at that time, so Revolut should reasonably have had the tools in place to provide a relevant warning to Mr F's circumstances. And I think it's more likely a clear tailored job scam warning would have revealed the scam at that time.*

*As mentioned before, I think that by the 16<sup>th</sup> payment a pattern of fraud had emerged, and I think Revolut needed to establish the circumstances surrounding the payment before allowing it to debit the account. And I therefore think it should have referred Mr F to the in-app chat for additional questions about the payment prior to it being processed.*

*If Revolut had provided a warning of the type described, would that have prevented the losses Mr F suffered from Payment 16?*

*Nothing I have seen in the communication between Mr F and the scammer leads me to believe he would not have been open and honest with Revolut had they asked him about the purpose of the payment. And on balance, I think basic questions about what the payment was for would most likely have revealed the scam. Mr F was paying an individual for cryptocurrency in order to fund his work balance, so he could earn higher levels of commission. This was a known type of scam when Mr F was attempting the payment, so I think it would have easily been uncovered that he was the victim of a task-based job scam if he'd been asked open and probing questions.*

*In this particular case, Mr F had attempted a number of transactions in a short period of time just a few hours before making Payment 16. So, I would have expected Revolut to pick up on this and ask Mr F why he had attempted so many payments in a short period of time. And I think this would have helped to uncover the scam at that point. I therefore think Revolut missed an opportunity to meaningfully reveal the scam.*

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

*In reaching my decision about what is fair and reasonable, I have considered that Mr F forwarded some of his funds via a payment services provider to a cryptocurrency wallet in his name, or purchased cryptocurrency from private sellers that then went into his own wallet, rather than making a payment directly to the fraudsters. So, he remained in control of his 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 F might have been at risk of financial harm from fraud when he made Payment 16, 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 F 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 F's own account does not alter that fact and I think Revolut can fairly be held responsible for Mr F's 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 F 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 F could instead, or in addition, have sought to complain against those firms. But Mr F has not chosen to do that and ultimately, I cannot compel them to. In those circumstances, I can only make an award against Revolut.*

*I'm also not persuaded it would be fair to reduce Mr F'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 F's loss from Payment 16 (subject to a deduction for Mr F's own contribution which I will consider below).*

#### *Should Mr F bear any responsibility for their 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 F received a job offer via a messaging platform, without having to apply or go through any interview process with a basic salary of £1,000 for five days work. And there was scope to make additional commission through 'special' tasks. On balance, I think Mr F could have seen this as too good to be true.*

*I appreciate Mr F had been looking for work so was expecting to be contacted by recruiters and I can understand this may have been convincing initially. However, by the time Mr F made Payment 16, he had already paid out thousands of pounds in just a few weeks to who he thought was his employer. On balance, I think he could have seen it as unusual for him to have to purchase and send cryptocurrency in order to continue to earn money for his job.*

*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 F's contribution to the loss, as I think this best accounts for Mr F's actions.*

Revolut did not respond to my findings with any additional comments or evidence for me to consider.

Mr F responded and said that he believed the scammers because they had so much documentation and references on everything, and this is why the income seemed believable. He was told the company was linked to a large online retailer, which made him believe the profits were so high.

#### **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.

I've considered Mr F's additional comments, as well as the evidence he has provided. I have considered that the company Mr F had supposedly been employed by was a clone of a genuine company. The genuine company appears to be related to software that allows business applications and services to be optimised. Mr F was told he had to help merchants

drive the traffic of their products by boosting the ratings of products. As I explained in my provisional decision, I can understand that this may have been initially convincing to Mr F, but I think that he could reasonably have taken steps to prevent his loss by payment 16.

I say this because by that point he had been 'working' for the company for around two and a half weeks and in that time he had put just under £10,000 into the work platform to optimise products. I think it would have been reasonable for him to see this as unusual and to question the legitimacy of the company. In addition, on the day of Payment 16 Mr F had difficulties being able to buy cryptocurrency so his colleague was helping him get past the security features of the crypto exchanges. They advised him to call his bank and say he was buying something to get the payments through, to make the payments in smaller amounts and to open new bank accounts. I think Mr F could have seen the person he was speaking to was asking him to take unusual steps to send cryptocurrency to his employer.

On balance, I think that by payment 16, Mr F could reasonably have taken steps to prevent the loss that he incurred, so I do think it is reasonable that the redress is reduced by 50% to account for his actions.

### **Putting things right**

Revolut should reimburse Mr F from Payment 16 onwards, as explained above it can reduce this redress by 50% to account for his contribution to the loss. It 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 F 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 F's complaint in part. Revolut Ltd should now put things right by paying the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 25 November 2024.

Rebecca Norris

**Ombudsman**