

## The complaint

Mr A is unhappy that Revolut Ltd won't reimburse money he lost to a scam.

## What happened

In September 2023 Mr A fell victim to what is known as a 'job' or 'task' scam. He was recruited by someone promising that he could earn money by carrying out simple online tasks. In keeping with this type of scam, Mr A was told that he needed to deposit cryptocurrency onto a platform in order to secure 'premium' tasks. Mr A was unable to withdraw his funds (or any commission) until he completed a set of tasks. But each time he neared completion of a set of tasks a new 'premium' task would be assigned to him. Each premium task was more expensive than the last and prevented Mr A from being able to withdraw the money he'd deposited or his supposed commission. Eventually Mr A ran out of money and couldn't carry on.

Mr A made debit card payments totalling £7,552 to the scam between 11 and 14 September 2023. Those payments are set out in the table below.

Payment number	Date and time	Amount	Merchant
1	11 September 2023, 16:51	£20	Crypto platform "B"
		-£100	Credit from third party
2	12 September 2023, 18:06	£157	Crypto platform "B"
3	12 September 2023, 19:33	£475	Crypto platform "M"
4	13 September 2023, 16:20	£1,000	Crypto platform "M"
5	14 September 2023, 17:38	£1,260	Crypto platform "M"
6	14 September 2023, 18:26	£2,000	Crypto platform "M"
7	14 September 2023, 18:48	£2,550	Crypto platform "M"
8	14 September 2023, 19:12	£90	Crypto platform "B"
Total		<b>£7,452</b>	

Mr A made a claim to Revolut, but it declined to reimburse him. It said that it couldn't recover his money through the chargeback scheme as the cryptocurrency platforms had provided services to Mr A.

Mr A referred a complaint to our service and one of our investigators upheld it in part. They thought Revolut should have recognised that Mr A was at risk of financial harm from fraud when he made a payment of £2,000 on 14 September 2023 and had it warned Mr A he

would have stopped making the payment and his loss from that point on would have been prevented. However, they thought that Mr A should also bear some responsibility for his loss, so they recommended that Revolut reimburse 50% of payments 6,7 and 8 set out in the table above. They also recommended 8% simple interest per year on that amount from the date of each payment to the date of settlement.

Mr A accepted our investigator's recommendation, Revolut did not. In summary it said that it should not be held responsible for 'self-to-self' payments and that we ought to contact other firms involved in the payment journey in order to establish whether Mr A received warnings from any other party.

As no agreement could be reached, the case was 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 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 A 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 Mr A 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 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 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 EMLs 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 September 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 *“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>2</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).

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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> BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

- Since 31 July 2023, under the FCA's Consumer Duty<sup>3</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>4</sup>.
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency<sup>5</sup> 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 September 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

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<sup>3</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>4</sup> The Consumer Duty Finalised Guidance FG 22/5 (Paragraph 5.23)

<sup>5</sup> 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.

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 2023, Revolut should in any event have taken these steps.

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

Mr A opened his Revolut account in 2019. He doesn't seem to have used it as his main bank account and the account appears to have been used mostly for card payments overseas.

In September 2023 that activity changed. For the first time, and as part of this scam, Mr A made payments to a cryptocurrency provider. Revolut doesn't dispute that it knew the recipients were cryptocurrency providers and by September 2023 it should have recognised that such payments carry a heightened risk of financial harm from fraud. While payments 1-5 were relatively modest in value, by payment 6 a clear pattern had emerged of payments increasing in value to high-risk merchants. Because of the risk associated with Payment 6, Revolut ought to have declined that payment in order to make further enquiries about it and provide a clear and specific warning.

By September 2023 I think that Revolut had sufficient information about this type of scam to provide a targeted and specific warning about it. Revolut ought to, at least, have asked Mr A a series of automated questions about the payment he was making in an attempt to narrow down the scam risk and provide a clear and specific warning highlighting the common features of such a scam – such as being paid commission for likes, clicks or reviews, needing to deposit money onto a cryptocurrency platform as part of a job and being unable to withdraw promised commission.

I'm conscious that Mr A would only receive a warning of this nature if he was honest about the purpose of the payment and the circumstances surrounding it. I've reviewed the evidence of Mr A's correspondence with the fraudsters and can't see anything within it that suggests he had a strong mistrust of Revolut, would ignore warnings or hide the reasons for making the payment.

The money that funded Mr A's payments came from a number of different accounts at two different banks ("L" and "N"), including Mr A's own account, the account of his girlfriend ("D"), and a joint account held by Mr A and D. We asked Mr A whether those banks had questioned any of those payments. He said that L did have concerns about the final payment D was making to his account and there was a telephone conversation in which scam risks were discussed.

We contacted both banks and asked them about any interventions or warnings they carried out (across both Mr A's and D's accounts). L said that it couldn't show that any interventions or warnings were provided. N said it would have shown a written warning on some of the payments based on the reason Mr A gave for them, but it couldn't demonstrate which warnings it did show. So there's no evidence that either bank gave a clear and specific warning of the type I've described.

The correspondence between Mr A and the fraudster does show his understandable concern that he might be repeatedly granted 'premium' tasks of increasing value and therefore would be unable to reclaim his earlier deposits or obtain his commission. I think that a warning of the type I've described would likely have reinforced those concerns and

have made Mr A realise that any further deposits would be simply throwing good money after bad.

And without other evidence suggesting that Mr A wouldn't have given accurate information to Revolut or would have disregarded a warning, I've decided that it's more likely than not that an intervention of the type I've described would have prevented Mr A's loss.

I've also thought about Mr A's role in what happened. In doing so, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in all the circumstances of this complaint.

I recognise that the scam had some compelling aspects – Mr A was contacted after leaving his details on a popular job site and understood that the fraudulent platform was associated with a major international brand.

But Mr A seems to have recognised the unusual nature of the agreement early on – noticing, with I think some surprise, that he'd have to pay his own money to the platform. He also doesn't seem to have initially questioned why the amounts he was required to charge his account with were rapidly escalating. It strikes me that the amount he was supposedly going to earn appeared to be linked to the amount he could deposit – rather than being based on the difficulty of the task or the time required to complete it. Ultimately, I think Mr A should have, by 14 September 2023, recognised that the dynamic of increasingly expensive tasks and the inability to withdraw his money could continue indefinitely and I think it's fair for his reimbursement to be reduced accordingly. Weighing up the fault on both sides, I think that deduction should be 50%.

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

In reaching my decision about what is fair and reasonable, I have taken into account that the money that Mr A lost originated in part from accounts under his control and was paid to an account held in his own name before being paid to the fraudsters.

But as I've set out in some detail above, I think that Revolut still should have recognised that Mr A might have been at risk of financial harm from fraud when he made Payment 6, and in those circumstances it should have declined the payment and made further enquiries. If it had taken those steps, I am satisfied it would have prevented the losses Mr A 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 A's own account does not alter that fact and I think Revolut can fairly be held responsible for Mr A'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 A 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 A could instead, or in addition, have sought to complain against those firms. But Mr A 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 A'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 A's loss from Payment 6 (subject to a deduction for Mr A's own contribution which I've set out above).

### **Putting things right.**

Overall, that means that Revolut should reimburse 50% of payments 6,7 and 8 – a total of £2,320.

In relation to interest, Mr A says that some of the money used to fund the scam was borrowed money from D. His statements reflect that the money used to fund payments 6,7 and 8 ultimately came from D. He's also provided evidence to show that he gradually repaid that money and had completely repaid her by early April 2024. Taking into account that Mr A and D are in a close relationship (including having a joint account), Mr A is only partially being refunded and has been deprived of the money I'm awarding for a significant period of time, I think it's fair and reasonable in all the circumstances for interest to be paid from the date of the payments to the date of settlement.

### **My final decision**

I uphold this complaint about Revolut Ltd and direct it to pay Mr A:

- 50% of payments 6,7 and 8 – a total of £2,320.
- 8% simple interest per year on that amount from the date of the payments to the date of settlement<sup>6</sup>.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 1 July 2025.

Rich Drury  
**Ombudsman**

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<sup>6</sup> If Revolut considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.