

## **The complaint**

Ms C complains that Revolut Ltd hasn't protected her from losing money to a safe account scam.

## **What happened**

The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, Ms C has explained that on 26 October 2022 she received a text message advising that her Apple Pay had been suspended due to suspicious activity. She has said she opened the link provided in the text message and shared her full name, address, phone number, and Revolut card details; and then later, the same day, she received a call from a scammer purporting to be from Revolut's fraud team – and was consequently tricked into falsely believing both her Revolut account, and another account she held with a third-party bank ("H"), had been compromised. As a result of this scam, Ms C was tricked into first transferring £25,000 from her account with H to her Revolut account, and then sending it (the £25,000) on from her Revolut account to a 'safe account' (the scammers' account).

Ms C subsequently realised she'd been scammed. Ultimately, whilst £4,594.85 of the £25,000 payment from Ms C's Revolut account was recovered from the recipient account and refunded to Ms C, Revolut didn't reimburse Ms C her remaining loss (£20,405.15), so she referred her complaint about Revolut to us. As our Investigator couldn't resolve the matter informally, the case has been passed to me for a decision.

I sent Ms C and Revolut my second provisional decision on 10 September 2024, explaining what I was minded to conclude and why. I'm satisfied both parties have had fair opportunity to respond and I'm now ready to explain my 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.

Having done so, and having not received a response to my second provisional decision from either Ms C or Revolut, I've reached the same conclusions as explained in my provisional decision dated 10 September 2024 and for the same reasons. I've explained my reasons again below.

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 Ms C 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 Ms C and The Payment Services Regulations to carry out her 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 October 2022 fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances (irrespective of whether it was also required by the express terms of its contract to do so).

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

- using algorithms to identify transactions presenting an increased risk of fraud;<sup>2</sup>

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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).

- 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 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

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<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”

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 October 2022 that Revolut should:

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

Ms C's payment instruction for £25,000 was for a large amount and wholly unusual and uncharacteristic for Ms C's account. Ms C opened her account with Revolut in August 2021, she'd never before instructed a payment from her Revolut account for close to this amount, and her intended payment was for a new payee. So, I'm persuaded that Revolut ought to have been on alert that Ms C was at risk of financial harm from fraud or a scam and it should have intervened appropriately before allowing the payment to be sent.

#### What did Revolut do to warn Ms C?

Revolut has provided information from which I'm satisfied that:

- Ms C would have been shown, in-app, a screen asking whether she knew and trusted the payee, and warning her that, *"If you're unsure, don't pay them, as we may not be able to help get your money back. Remember, fraudsters can impersonate others, and we will never ask you to make a payment"*.
- Ms C must have nonetheless clicked *"Send"*, to proceed with the transaction. But this triggered another one of Revolut's alerts, by which Ms C would then, again in-app, have been asked a series of questions. Revolut has retained a copy of the questions it asked Ms C at this point, and the answers she gave, which were as follows:

Revolut: *"Please tell us the purpose of this payment"*

Ms C: *"Something Else"*

Revolut: *"Have you been asked to ignore scam warnings during making the payment?"*

Ms C: *"No"*

Revolut: *"Has the recipient threatened you with the risk of additional fines or being arrested?"*

Ms C: *"No"*

Revolut: *"Are you paying someone you don't know, barely know or recently met online?"*

Ms C: *"No"*

Revolut: *"Have you been asked to pay an upfront fee in the promise of receiving a larger payment later?"*

Ms C: *"No"*

Revolut: *"Have you been asked by someone you were expecting to pay to unexpectedly amend their bank account details?"*

Ms C: *"No"*

I understand from the information Revolut has provided that Ms C would then, again in-app, have been shown a screen giving her two options: to cancel the payment, or to start a chat with a Revolut agent who would take things from there. And that Ms C then clicked to *"Start chat"*. Revolut has provided us with a copy of the ensuing in-app chat it had with Ms C about the payment instruction. These chat transcripts show that:

- Revolut advised Ms C that her transaction of £25,000 could be linked to a scam and to *"Please be aware that scammers are using increasingly sophisticated techniques to gather personal information and convince customers to transfer funds in complex scams. They can pretend to be a financial institution, government institutions, trusted online merchants or even people you know. They may even contact you from a number that appears to belong to a trusted source"*. It told her once the funds left her account, it was highly unlikely that they could be recovered, and that she should ensure that she wasn't being pressured into making this payment. It then asked Ms C to confirm the purpose of this transaction.
- Ms C replied and said, *"I am making a transfer to my own account"*.
- Revolut then asked Ms C, *"Was this account set up exclusively by you, without the assistance of any third parties?"*
- Ms C replied, *"yes this was set up exclusively by myself"*.
- Revolut then asked Ms C, for identification purposes, to provide a selfie while holding a piece of paper with a certain handwritten note on it held next to her face.
- In response to this request, Ms C sent Revolut two things. First, a screenshot of the phishing text she had received that same day, informing her that her Apple Pay had been suspended due to suspicious activity. Second, she sent Revolut the requested selfie with her holding the note Revolut had requested.
- Revolut then apparently allowed the transaction through.

### What kind of warning should Revolut have provided?

In my first provisional decision, issued in September 2023, I said that I thought Revolut reasonably ought to have called and spoken to Ms C about the payment, before following her instructions to make it. In response, Revolut robustly argued that it wouldn't have done this – I understand, in essence, because its in-app chat feature is designed to replicate a verbal conversation. And whilst I note there may be cases where, nonetheless, a telephone conversation might be proportionate and appropriate, before following a customer's instructions to make a payment, I accept on balance that this probably isn't one of them. But I do think here that Revolut's in-app intervention ought to have gone materially further than it actually did. I say this because:

- During the in-app chat, Ms C said the purpose of her payment was to make a transfer to her own account. However, Revolut has provided information showing us that when Ms C instructed the payment, "Confirmation of Payee" was in place. Confirmation of Payee is a system by which, when instructing a payment, the actual name of the recipient account holder is cross-referenced with the details input by the payer (here, Ms C). Revolut has provided information showing Confirmation of Payee, in this instance, was in place and showed the result of "Not Matched", meaning the actual name of the recipient account holder appeared not to match Ms C's intended recipient based on the details for the payment instruction she had entered.
- But here, during the in-app conversation, Ms C told Revolut that she was paying her own account. So I think this ought to have concerned Revolut. I appreciate Revolut did ask Ms C whether she'd set up the account she was paying without assistance from a third party, and Ms C said yes. But still, given the unusualness of this particular payment instruction, I do think Revolut ought to have flagged, in the in-app chat, that Confirmation of Payee showed as not matched and this was a significant concern.
- Another really significant point of concern to Revolut ought to have been that it had engaged with Ms C through the in-app chat because it was concerned she might be about to fall victim to fraud or a scam – and that, unprompted, Ms C had sent Revolut, within the in-app chat, a screenshot of the phishing text she had received that same day, informing her that her *"Apple Pay has been suspended due to suspicious activity"*. To a trained eye, this text message clearly wasn't related to Ms C's real Apple Pay, but instead was extremely likely to be related to fraud or a scam. And I think the fact Ms C provided Revolut with this screenshot during the in-app chat whereby Revolut was rightly endeavouring to prevent Ms C from falling victim to a potential fraud or scam, this ought to have led to Revolut, by now, being on very high alert – and that it should not have agreed to put the payment through until it was satisfied Ms C wasn't being scammed.

So, I think that not only should Revolut have pointed all of this out to Ms C, it should have provided a strong warning indeed, really have gotten into the precise details with Ms C, and not have executed the payment request unless or until it was completely satisfied everything was in order.

If Revolut had provided a warning of the type described, would that have prevented the loss Ms C suffered from this payment?

I've thought really carefully about this, given that Ms C has said she was being manipulated by the scammer at the time of Revolut's in-app chat with her. And I accept it's possible that even if Revolut's intervention had gone as far as I think it reasonably ought to have done, this may not have been able to prevent Ms C's loss. However, I think it's more likely that it would have done. I say this because:

- Whilst there's been much said about the scammer having access to the in-app chat with Revolut by way of remote access software – Ms C saying this happened, and Revolut saying this wouldn't have been possible – it seems clear to me that even if the scammer did, in effect, answer some of Revolut's questions in the in-app chat, some of the answers must have been given by Ms C. For example, I can't see any reason why the scammer would have sent to Revolut a screenshot of the phishing text Ms C had received about her Apple Pay, as that ought to have risked, if Revolut had done what it should have, the uncovering and preventing of the very scam the scammers were trying to execute. And by Revolut's own submissions, it must have been Ms C on the chat.
- So, I think Ms C most likely did have some sight to the in-app chat. And whilst Ms C has said the scammer coached her into expecting some level of questions from Revolut and that this was just part of the process whereby they would protect her account, I think that, for the reasons I've explained above, Revolut's concerns ought to have been great enough such that its in-app warnings became explicit, direct and pointed, such that it probably ought to have become clear to Ms C that things didn't seem right, and that she should properly engage with Revolut – after all, £25,000 would be an extremely large amount of money for her to lose, and her actions were being driven by the very desire to protect her money.
- Given all this, and bearing in mind that where I can't be sure about something, I need to make up my mind based on the balance of probabilities, I think it's most likely that if Revolut had done what it reasonably should have done, either Ms C would have realised things weren't right and/or Revolut would not have been satisfied from the ensuing interaction that it was safe to allow the payment through. Such that I think, if Revolut had done what it should have done, Ms C's loss would probably have been avoided. I'm mindful here that Ms C has explained that it wasn't long afterwards that, whilst on the phone to the scammer, she was interrupted by a neighbour and the scam was uncovered, so even a slight delay in Revolut making the payment could have made all the difference here, and it may not have taken too much tailored discussion and further pointed warnings from Revolut to uncover things. Revolut, itself, has said its in-app chat is highly effective at uncovering scams; I'd expect Revolut to have been agile and dynamic in its responses, picking up on a fraudulent text message and questioning Ms C about it; and on balance I do think it most likely ought to have been able to prevent Ms C's loss in the circumstances I've described.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Ms C first moved the £25,000 from her account with H to her Revolut account before sending it on from there to the scammers.

I have carefully considered Revolut's view on multi-stage fraud. But as I've set out in some detail above, I think that Revolut still should have recognised that Ms C might have been at risk of financial harm from fraud when she instructed this payment from her Revolut account.

And if Revolut had taken the steps I've explained I think it should have, I am satisfied it would have prevented the loss Ms C suffered. The fact that the money used to fund the scam came from elsewhere does not alter that fact and I think Revolut can fairly be held responsible for Ms C's loss in such circumstances.

I've also considered that Ms C has only here 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 Ms C could instead, or in addition, have sought to complain here against those firms. But Ms C has not chosen to do that here and ultimately, I cannot compel her to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Ms C's compensation in circumstances where: the consumer has only complained here about one respondent from which she is entitled to recover her loss in full; has not complained here 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 Ms C's loss of this payment.

#### Should Ms C bear any responsibility for her loss?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint. But here, I've reached the same conclusions as I've previously explained, and for materially the same reasons. In this case, I think it's fair to say Ms C felt pressure to act quickly and was tricked by resourceful and clever scammers. I think she was genuinely tricked and her actions were driven by a reasonable desire to protect her money – and that I can't fairly say she acted with such carelessness, or disregard, that a deduction for contributory negligence would be appropriate. So, whilst there may be cases where a reduction in compensation for contributory negligence is appropriate, I'm satisfied this isn't one of them.

#### Recovery

There's no need for me to address recovery, since for the reasons explained I think Revolut reasonably ought to have prevented the payment from being sent in the first place. However, I understand Ms C has commented on recovery quite substantially, so for completeness, I have considered whether Revolut ought reasonably to have been able to recover more than the £4,594.85 it did from the recipient account, if it had acted quickly to try to recover Ms C's funds when she notified it she'd been scammed. However, information we've received from the receiving payment service provider shows that it took the receiving payment service provider over 13 hours, from the time it received Revolut's APP fraud notification, to freeze the recipient account. And having seen details of the recipient account, I can see that even if Revolut had sent its APP fraud notification to the receiving payment service provider as quickly as at 5.51pm on 26 October 2022 (one hour after Ms C first reported the scam to Revolut), this likely wouldn't have made a difference. The receiving payment service provider might still not have frozen the account any more quickly than it did, and if it had frozen it within the over 13 hours it actually took anyway (which isn't an unreasonable assumption), materially no more funds would have been available than were recovered anyway. So I'm not persuaded I can fairly say it's likely Revolut unreasonably hindered recovery of Ms C's payment.



## **Putting things right**

I'm satisfied if Revolut had done what it should have done, the loss of Ms C's payment most likely would have been avoided. So, for the reasons I've explained, I think it's fair that Revolut pays Ms C £20,405.15 (that's her remaining loss, given the payment was for £25,000 and £4,594.85 of this has already been recovered and refunded to Ms C). To compensate Ms C for having been deprived of this money, Revolut should also pay Ms C interest on this £20,405.15 calculated at 8% simple per year from 26 October 2022 to the date of settlement.

## **My final decision**

For the reasons explained, I uphold this complaint and I direct Revolut Ltd to pay Ms C:

- £20,405.15; plus
- interest on this amount calculated at 8% simple per year from 26 October 2022 to the date of settlement (if Revolut deducts tax from this interest, it should provide Ms C with the appropriate tax deduction certificate).

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 30 October 2024.

Neil Bridge  
**Ombudsman**