

The complaint

Mrs S complains that Revolut Ltd won't refund her after she fell victim to a safe account scam.

What happened

On 19 September 2024, I issued my provisional decision on this complaint. I wanted to give both parties a chance to provide any more evidence and arguments before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

The circumstances of this complaint are well known to both parties, so I won't repeat them in detail here. But briefly, both parties accept that in around July 2023, Mrs S received a genuine telephone call from her credit card provider, advising there were unauthorised transactions on her account. Later that day, she received another call on her son's telephone number, also purporting to be calling from the credit card company again. However, unbeknownst to Mrs S at the time, this call was in fact from a fraudster. Mrs S asked why they were calling her son's telephone number, and was told that number was also linked to her account.

The fraudster advised Mrs S that there were further unauthorised transactions on her account and that another of Mrs S' banking provider's accounts would be at risk, as the two were linked.

Mrs S was asked if she had any other accounts where she could transfer her funds to. Mrs S advised she had a Revolut account (which she had only opened earlier that same day). Mrs S was advised to make three separate payment transfers from her other banking provider, to the recently opened Revolut account. She was then advised to make a payment of £9,500 from her Revolut account to a 'safe account'. The account name provided to send funds to was a name unknown to Mrs S. The fraudster told Mrs S that this was the name of the bank manager, and that the manager would ensure her money was transferred on to her own account. Mrs S was told that this would avoid further hacking occurring on Mrs S' new account.

Revolut has said that when adding the beneficiary's details to make the scam payment, Mrs S would've been provided with the following warning message:

Do you know and trust this payee?

If you're unsure, don't pay them, as we may not be able to help you get your money back. Remember, fraudsters can impersonate others, and we will never ask you to make a payment.'

Mrs S was required to acknowledge this message before proceeding with the payment. Mrs S was then asked for the purpose of the payment (where she selected the 'something else' option.) She was then asked to confirm that she hadn't been told to ignore Revolut's warnings, that she wasn't being threatened with fines, that she wasn't paying someone she didn't know or barely knew, that she wasn't paying an up-front fee and that she wasn't paying someone who she had received amended account details for. Mrs S confirmed none of these questions to be true.

Following these questions, Revolut has explained that Mrs S' payment remained frozen and that she was passed through to an in-app chat. During the live chat with Revolut, its agent, among other points, provided the following information:

'Whilst I am checking some information, 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, an exciting investment opportunity or even people you know. They may even contact you by phone or SMS from a number that appears to belong to a trusted source, such as Revolut or another bank.'

'If you have been called by any bank claiming that your account is not safe and you need to move your money to another account, stop. They may claim that they have created a new 'safe' account for you to move your money into or they may claim that this is part of a special police/internal fraud research. This is a lie and is a tactic which scammers are using to scare you. Be aware that they are able to make it appear that they are calling you from a genuine bank phone number to convince you that they are from that bank. Remember, if you continue to transfer your money to the account details you have been provided, we cannot guarantee that we will be able to recover your money and you risk losing it. Is this / something similar the reason for your transfer?'

'Have you recently been contacted by anyone unexpectedly on the phone or by text, advising you of a concern and asking you to move money to another account?'

Mrs S answered 'no' to these questions. Revolut went on to say:

'No bank or institution should be guiding you on what to say on chat support. If they are, they are trying to scam you and you should let us know immediately.'

As Mrs S had advised that her payment purpose was for 'something else', Revolut provided further information and questions on this, including:

'Revolut and other trusted organisations will NEVER tell you to ignore this warning or to lie about the reason for your payment.'

Have you been told that you need to move your money to a safe account as your account is at risk / compromised?'

Again, Mrs S answered 'no' to these questions. Revolut again advised that fraudsters can pretend to be from other organisations and asked Mrs S to write the following in the chat:

'Revolut has warned me that this is likely a scam, and are unlikely to recover my funds if I proceed with this transaction.'

Mrs S did this as requested, at which point the payment was released. Once the payment had gone through, the fraudster ended the call and Mrs S realised that day she'd been the victim of a scam. Mrs S contacted Revolut on the app-chat to raise a scam the following morning.

Following its review, Revolut declined Mrs S' claim. It said it provided targeted questions and warnings on its live chat, but that Mrs S provided incorrect information during this chat. Revolut doesn't consider further questioning would've changed the outcome of the claim as Mrs S was being guided by the fraudster in her responses. It also said it contacted the beneficiary bank provider to attempt to recover Mrs S' funds but unfortunately, no response was ever received by the banking provider.

Mrs S referred her complaint to our service and one of our investigators upheld it in part. He thought that Revolut ought to have used more open questioning in its in-app chat to understand Mrs S' payment purpose and that asking questions requiring only a 'yes' or 'no' answer weren't sufficient to break the spell of the scammer. However, he also thought that there were sufficient warning signs that Mrs S may be falling victim to a scam here and by proceeding in spite of these, she should also be held partly liable for her losses.

Revolut disagreed with the investigator's view. In summary it said:

- *Revolut recognises its obligations to have adequate procedures in place to counter the risk that it may be used to further financial crime, but that duty is not absolute and does not go as far as to require Revolut to detect and prevent all fraud. It must comply strictly and promptly with valid payment instructions and does not need to concern itself with the wisdom of those instructions. This was confirmed in the recent Supreme Court judgement in the case of Philipp v Barclays Bank UK plc [2023] UKSC 25.*
- *There are no legal obligations for Revolut to refund its customers who have fallen victim to a scam. Our service appears to be treating Revolut as if it were a signatory to the Contingent Reimbursement Model (CRM) Code.*
- *The Payment Service Regulator's ("PSR") mandatory reimbursement scheme will not require it to refund payments where the victim has ignored warnings with gross negligence. Mrs failed to carry out sufficient due diligence when making this payment transfer.*
- *Our service has reached irrational conclusions on the likely counterfactual outcome if different warnings had been given. In this case, a decision has been made on the basis that a warning provided was not enough. However, Revolut considers these warnings were proportionate – and that Mrs S acknowledged the risks and decided to proceed.*

As no agreement could be reached, the case was passed to me for a decision.

What I've provisionally 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, while I'm sorry to disappoint Mrs S, I'm not minded to uphold her complaint. I appreciate this will come as a disappointment to Mrs S, but I've explained my reasons below.

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.

But, 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 including in relation to card payments);*
- 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.*

It isn't in dispute that Mrs S has fallen victim to a cruel scam here, nor that she authorised the disputed payments she made from her account, but I've thought about whether Revolut should have reasonably intervened further, prior to processing the payments. Having considered the available evidence, I think the steps Revolut took to protect Mrs S from financial harm from fraud were proportionate in the circumstances of the complaint. I'll explain why.

Mrs S had only opened her Revolut account the same day as the scam, so Revolut had no previous account history to consider when assessing whether these payments were out of character or not. But regardless of this, based on the value of the payment Mrs S was making, I would still have expected it to have provided an in-app warning to Mrs S, broadly covering general scam risks.

In this case, not only did Revolut provide a general scam risk, but it also passed Mrs S to an in-app chat to further discuss the payment. Here Mrs S was asked a number of questions to better identify if she was falling victim to a scam, a number of which, included above, were relevant to the scam she was falling victim to.

I appreciate Mrs S has explained that the text by Revolut was small, that messages were long and that she was being guided by the fraudster on how to answer the questions. However, Mrs S was, at the end of the chat, directed to repeat text set out by Revolut, confirming her awareness that Revolut believed she was falling victim to a scam. As Mrs S followed this instruction, I think it demonstrates she was, at least in part, reviewing what Revolut was saying to her. In any event, if Mrs S hadn't read the text in full up until this point,

I think this stark statement by Revolut ought to have caused Mrs S to stop and question what had been said to her so far. I accept that Mrs S was being guided by the fraudsters in how to answer the questions posed by Revolut, but I don't think that there's much more that Revolut could've done, proportionate to the scam risk identified, to relay its concerns to Mrs S and protect her from financial harm.

I've also considered whether Revolut did enough to recover Mrs S' funds, once it was made aware of the scam risk. Mrs S raised a scam claim with Revolut the day after she fell victim to the scam. However, the beneficiary bank that received Mrs S' payment has confirmed funds were removed from the account the day of the scam. Therefore, regardless of how quickly Revolut had acted, it would not have had any chances of recovering Mrs S' funds.

Therefore, for the reasons I've explained above, while I'm genuinely sorry to hear that Mrs S has fallen victim to this scam, I can't conclude that Revolut is liable for her losses and it therefore follows that I can't direct Revolut to refund any losses incurred from her account.

My provisional decision

My provisional decision is that I don't uphold Mrs S' complaint against Revolut Ltd.

Mrs S disagreed with my provisional decision. To summarise, she considered that Revolut ought to have frozen her account when attempting to make this payment and called her, prior to processing it. She also said that after the scam occurred, there was no clear information online on how to contact Revolut to raise a scam claim. Mrs S also says that when she asked for evidence that Revolut had made attempts to contact the beneficiary bank it wouldn't provide this, and she therefore questions whether it took the steps it should've done.

Revolut didn't respond to my provisional 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.

I appreciate Mrs S' strength of feeling in this case, and I'd like to assure her I've carefully considered all the additional points she has made. However, having done so, while I'm sorry to disappoint Mrs S, my opinion remains the same and I am not upholding her complaint. I've provided my reasons below, covering Mrs S' additional points.

While I understand that Mrs S feels Revolut ought to have called her to further question this payment, I unfortunately can't agree on this point. I have to bear in mind that Revolut has to maintain a difficult balancing act between protecting its customers from financial harm from fraud, while not unduly inconveniencing them when making genuine payments (as, of course, the majority are). Based on the value of this payment, tied in with Revolut's lack of previous account history for Mrs S, I think the steps it took to protect her are sufficient for the identified risk, and I think it would be unreasonable to determine that Revolut ought to have intervened further, prior to processing the payment.

Having reviewed Revolut's processes online for flagging a scam payment, I don't think the process is unnecessarily onerous that this would impact a customer's ability to raise a claim. I understand why Mrs S would feel frustrated by not being provided evidence requested from her bank. Revolut has provided evidence to our service that Mrs S contacted it at around 05:00 the day after the scam occurred, and that it had obtained evidence needed from her by around 06:00. Revolut contacted the beneficiary around that same afternoon, at 14:58.

While I would have expected Revolut to act more promptly than this, I've received evidence from the beneficiary account provider that funds were removed the day the scam occurred – so before Mrs S had contacted Revolut. Therefore, Revolut had no prospects of recovering Mrs S' money, regardless of how promptly it would have acted.

Overall, while I understand Mrs S' disappointment in this outcome, I remain of the opinion that Revolut isn't responsible for her losses and it therefore follows that I don't require Revolut to reimburse her.

My final decision

My final decision is that I don't uphold Mrs S' complaint against Revolut Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 1 November 2024.

Kirsty Upton
Ombudsman