

The complaint

Mrs C complains about Revolut Ltd.

She says that Revolut didn't do enough to protect her when she fell victim to a scam, and would like it to refund her the money she has lost as a result.

What happened

The details of what happened are well known to both parties, so I won't repeat them in detail here. In summary, Mrs C saw an advert for a company offering investments supposedly endorsed by a well-known celebrity.

She searched for the company online and completed a contact form on its website. Soon after she was contacted by an individual. This individual explained that the company operated an automatic trading system that scanned popular cryptocurrencies and invests funds into them.

Mrs C was told she would be taught how to invest in crypto and provided with an account manager. She would need to start with a small payment and would be contacted by her account manager to discuss the next steps.

Mrs C's account manager then contacted her and explained she would need to open an account with 'W' a crypto exchange and download AnyDesk. She was provided with a link to her 'account' which would show her balance.

The account manager then showed Mrs C how to withdraw her profits with a small withdrawal. Believing this to be a sign that the investment was indeed legitimate, Mrs C then went on to make further payments, and initially she was able to withdraw some of her 'profits'. She was also told to open up another crypto account with 'C', a different crypto exchange.

Mrs C was then going to make a larger payment, but decided against investing such a large sum, and so sent a lower amount instead, however, soon after, things began to go wrong, and Mrs C was persuaded to pay further funds to rescue her investment and make a withdrawal. After being asked to pay further funds, Mrs C refused to do so, as this wasn't what had been agreed. She contacted the provider of her crypto wallet to see what was going on but was told that no money was held in the wallet, and the platform she had been viewing her investment on had been fabricated, and that she had been scammed.

By this point, Mrs C had made the following payments – the payments in **bold** are the scam payments in question.

Payment	Date	Type of transaction	Amount
	6 June 2023	Credit card payment from external account	£219
	7 June 2023	Credit from W	£18.69
1	7 June 2023	Payment to W	£2,800
2	8 June 2023	Payment to W	£10

	21 June 2023	Payment to C	£1
	21 June 2023	Profit withdrawal	£8
	21 June 2023	Credit from C	£1
	25 June 2023	Payment from Mrs C's account with S	£25,000
	27 June 2023	Payment to Mrs C's account with S	£25,000
	4 July 2023	Profit withdrawal	£427
3	4 July 2023	Payment to W	£10,000
	17 July 2023	Profit withdrawal	£834.81
4	17 July 2023	Payment to W	£6,350
5	24 July 2023	Payment to W	£24,000
6	27 July 2023	Payment to W	£14,100
		Recovered funds	£0.02
		Total loss	£55,990.17

Mrs C complained to Revolut, but it didn't uphold her complaint, so she brought her complaint to this Service.

Our Investigator looked into things, and thought that Revolut hadn't gone far enough to protect Mrs C. They recommended that Revolut should refund her the first two payments she made in full – and that responsibility for the remaining payments should be shared between Mrs C and Revolut on a 50% basis as while Revolut hadn't done enough, Mrs C also wasn't as careful as she should have been with her money.

Mrs C accepted this, but Revolut did not, so the complaint has been passed to me to make 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.

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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 Mrs 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 Mrs C 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 immediately¹. 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 June 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;²
- 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.

¹ 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).

² 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/>

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)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 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 Code⁴, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code (and Revolut was not a signatory), but the standards and expectations it referred to represented a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now (regardless of the fact the BSI was withdrawn in 2022).
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer’s control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a cryptocurrency wallet held in the consumer’s own name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet.

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 June 2023 that Revolut should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;

³ 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.

⁴ BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

- 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 Mrs C was at risk of financial harm from fraud?

I'm satisfied that at the point Mrs C made her first payment that Revolut should have had concerns with what was going on, and that Mrs C may have been at risk of financial harm.

For this payment, Mrs C selected the payment reason as 'safe account' (which remained the same for all the payments she made). Safe account scams are a well-known type of scam, and Revolut would have been aware of this at the time. Mrs C doesn't recall selecting this option and wasn't sure why she did so, as she wasn't making this type of payment.

Nonetheless, it should have prompted Revolut to take action firstly as the payment reason provided would indicate a scam was taking place, and also because it would have been aware that the payment was going to a crypto provider, which Revolut should also know carries an elevated risk of fraud and scams.

I understand that Revolut has said that selecting 'safe account' need not trigger a heavier intervention at Revolut's end – and that it can also be perceived as 'the customer's other legitimate account'. But I don't agree with this statement. The 'safe account' option is clearly designed to capture individuals falling victim to this type of scam. And I think it would be an unusual way of someone expressing that they were moving money to their own account.

What did Revolut do to warn Mrs C and what warning should it have provided?

Revolut provided Mrs C with a standard warning about scams when she first set up the payee, and then a more tailored warning about safe account scams when she made a later payment.

Given that Mrs C had selected 'safe account' as the reason she was making the payments, I think that a more appropriate warning would have been for Revolut to invite Mrs C to discuss the payments through its app – especially as it was clear that the payment was going to a crypto exchange.

While I can't say that there are any definitive questions I would expect Revolut to have asked, I think that it could have asked her why she selected this type of payment, but the money was going to crypto, and explained what a safe account scam is – and then asked her if this was the reason for her payment, or something else.

Mrs C has said that she doesn't remember why she selected safe account, but I think that she would have told Revolut that she was making the payment as part of an investment and selected the option by mistake. I say this because when asked by S, the bank she moved her money from to Revolut, she was open and honest about what she was doing.

Revolut could then have gone on to ask questions about the crypto investment, such as how she came across it, and what the plan was once the money was sent to the crypto exchange, and set out how crypto scams commonly work - including the use of applications such as Anydesk and fake celebrity endorsements.

If Revolut had provided a warning of the type described, would that have prevented the losses Mrs C suffered from payment one?

If Revolut had done what I expect, I think that Mrs C would have been honest about what was going on, and divulged the information readily to Revolut, which would have made it clear that Mrs C was being scammed. And had Revolut told her this, I don't think she would have continued to make the payment.

I say this because the scam Mrs C fell victim to had a number of typical aspects of crypto investment scams. For example, it was endorsed by a celebrity and Mrs C was instructed to download screen sharing software. Also, the returns promised were too good to be true. And had Revolut provided a clear and relevant warning, I don't think she would have continued to make the payment.

Mrs C hadn't ignored any previous warnings and had already told one bank she was investing in crypto, but unfortunately it didn't go far enough to alert her to the types of scam associated with such payments, and only told her she should check the FCA's website. So had Revolut provided her with the type of warning I would have expected, I don't think that she would have continued.

I also don't agree with Revolut that Mrs C attempted to conceal what she was doing by selecting 'safe account' and so would have held information from it, given she had been honest previously. And I accept that she selected 'safe account' as a mistake, and so the warning Revolut did provide her with wouldn't have been applicable to her circumstances.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Revolut I have taken into account that Mrs C purchased cryptocurrency which credited an e-wallet held in her own name, rather than making a payment directly to the fraudsters. So, she remained in control of her money after she made the payments from her Revolut account, and it took further steps before the money was lost to the fraudsters.

I have carefully considered Revolut's view that in a multi-stage fraud, a complaint should be properly considered only against either the firm that is a) the 'point of loss' – the last point at which the money (or cryptocurrency) remains under the victim's control; or b) the origin of the funds – that is the account in which the funds were prior to the scam commencing. It says it is (in this case and others) merely an intermediate link – being neither the origin of the funds nor the point of loss and it is therefore irrational to hold it responsible for any loss. In reaching my decision, I have taken into account that the payments were made to another financial business (a cryptocurrency exchange based in another country) and that the payments that funded the scam were made from other accounts at regulated financial business.

But as I've set out above, I think that Revolut still should have recognised that Mrs C might have been at risk of financial harm from fraud when she made her first payment, 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 Mrs C 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 Mrs C's own account does not alter that fact and I think Revolut can fairly be held responsible for Mrs C'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 Mrs C 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 Mrs C could instead, or in addition, have sought to complain against those firms. But Mrs C has not chosen to do that 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 Mrs C'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 Mrs C's loss from the first payment (subject to a deduction for Mrs C's own contribution which I will consider below).

Should Mrs C bear any responsibility for her 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.

For the first two payments Mrs C made, I don't think that she acted unreasonably. She had come across an advert supposedly endorsed by a well-known celebrity, and after completing a form was contacted by a professional sounding individual who gave her confidence in what she was doing. She had already made a small deposit from another bank and had successfully made a withdrawal. So, I don't think that she would have had any reason to doubt the legitimacy of what she was doing at this point.

However, when she made the payment of £10,000, I don't think that Mrs C was as careful as she should have been. I say this because Mrs C spoke with S, her bank from which she sent the money to Revolut from. While S didn't do enough to warn Mrs C about what she was doing, it did tell her to check the FCA website and use its 'scam smart' tool to make sure that she was dealing with a legitimate company. Had Mrs C done so, she would have seen a warning on the FCA website, explaining that B was not authorised, and was targeting people.

I also think that when B told Mrs C her investment was 'insured' and that she couldn't lose money, she should have questioned this, as all investments carry some level of risk, and a genuine firm would never make this kind of promise.

I also think that the returns offered to Mrs C were too good to be true – and that the growth she had apparently made on her investment was so high that it should have caused doubts that this was really the case.

For these reasons, I think that liability for payments three to six should be shared between Mrs C and Revolut on a 50% basis.

Putting things right

Revolut Ltd should refund Mrs C 100% of payments one and two (less any returns and refunds received).

Revolut should also refund Mrs C 50% of payments three to six (less any returns and refunds received).

On top of this, Revolut should also pay Mrs C 8% simple interest from the dates of the payments until settlement (minus any lawfully deductible tax).

My final decision

I uphold this complaint in part, Revolut Ltd should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 21 February 2025.

Claire Pugh
Ombudsman