

The complaint

Mr A complains that Revolut Ltd (“Revolut”) didn’t do enough to protect him when he fell victim to a scam.

What happened

The details of this complaint are well known to both parties, so I won’t repeat them in full here. Instead, I’ll summarise what happened and focus on giving the reasons for my decision.

Mr A was tricked into believing he had been contacted by a recruiter and had been employed by a legitimate company. Thinking he was earning commission by increasing visibility for the company, he made multiple card payments in February 2023. There have been various different payments mentioned but, from what I can see from the statements and information provided, the relevant payments are as follows:

Payment	Date	Amount	Recipient	Status
1	22 February 2023	£34	Cryptocurrency exchange	Completed
2	23 February 2023	£17	Cryptocurrency exchange	Completed
3	24 February 2023	£30	Cryptocurrency exchange	Completed
4	24 February 2023	£199	Cryptocurrency exchange	Completed
5	24 February 2023	£80	Cryptocurrency exchange	Completed
	<i>24 February 2023</i>	<i>£422.30</i>	<i>Cryptocurrency exchange</i>	<i>Credit</i>
6	25 February 2023	£135	Cryptocurrency exchange	Completed
7	25 February 2023	£311	Cryptocurrency exchange	Completed
8	25 February 2023	£130	Cryptocurrency exchange	Completed
	<i>25 February 2023</i>	<i>£483.71</i>	<i>Cryptocurrency exchange</i>	<i>Credit</i>
9	27 February 2023	£251	Cryptocurrency exchange	Completed
10	27 February 2023	£450	Cryptocurrency exchange	Completed
	27 February 2023	£750	Cryptocurrency exchange	Declined
11	27 February 2023	£740	Cryptocurrency exchange	Completed

12	27 February 2023	£100	Cryptocurrency exchange	Completed
13	27 February 2023	£740	Cryptocurrency exchange	Completed
14	27 February 2023	£740	Cryptocurrency exchange	Completed
15	27 February 2023	£750	Cryptocurrency exchange	Completed
16	27 February 2023	£750	Cryptocurrency exchange	Completed
	28 February 2023	£800	Cryptocurrency exchange	Declined
17	28 February 2023	£800	Cryptocurrency exchange	Completed
18	28 February 2023	£900	Cryptocurrency exchange	Completed
19	28 February 2023	£900	Cryptocurrency exchange	Completed
20	28 February 2023	£900	Cryptocurrency exchange	Completed
21	28 February 2023	£900	Cryptocurrency exchange	Completed
22	28 February 2023	£900	Cryptocurrency exchange	Completed
23	28 February 2023	£900	Cryptocurrency exchange	Completed
24	28 February 2023	£580	Cryptocurrency exchange	Completed
	10 March 2023	£40.79	Cryptocurrency exchange	Credit

Realising he'd been scammed, Mr A contacted Revolut but it didn't uphold his complaint.

Our investigator considered this complaint. She ultimately concluded that the complaint should be upheld in part. She felt that a tailored warning should have been given at the point of payment 16 but that this wouldn't have prevented the loss. But she also felt that there should have been a human intervention the following day – at the point of payment 18. She thought this intervention would likely have unravelled the scam, so the complaint should have been upheld from this payment onwards.

However, the investigator also felt that Mr A should bear some responsibility for the loss. Had he carried out due diligence, he would have found the company didn't exist, and an incorrect company number had been provided. She also thought the circumstances around the job itself should have cast doubt on its legitimacy – having to pay money and buy cryptocurrency for a paid job opportunity. So she thought there should be a 50% reduction to reflect the contributory negligence on Mr A's part.

Mr A, via his representative, accepted this but Revolut disagreed. It doesn't feel it should be held responsible for Mr A's losses.

I issued a provisional decision in October 2024. In this, I said:

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 – among other things – 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” (section 20).

So Revolut was required by the terms of its contract to refuse payments in certain circumstances, including to comply with regulatory requirements such as the Financial Conduct Authority's Principle for Businesses 6, which required financial services firms to pay due regard to the interests of their customers and treat them fairly. I am satisfied that paying due regard to the interests of its customers and treating them fairly meant Revolut should have been on the look-out for the possibility of fraud and refused card payments in some circumstances to carry out further checks.

In practice Revolut did in some instances refuse or delay payments at the time where it suspected its customer might be at risk of falling victim to a scam.

I must also take into account that 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 February 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 EMI's like Revolut did in fact seek to take those steps, often by:

- using algorithms to identify transactions presenting an increased risk of fraud;¹*
- 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 February 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)².*
- 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 Code³, 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*

¹ 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/

² 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.

³ BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

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.*
- 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 February 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); 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.*

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

Should Revolut have recognised that consumer was at risk of financial harm from fraud?

I'm satisfied that there was nothing about the payments prior to payment 14 that ought to have looked concerning to Revolut. Though they were identifiably being made to

cryptocurrency, these were relatively low in value and Mr A had made cryptocurrency payments previously. But, given the value and that it was the sixth payment that day to the same recipient, which was also a cryptocurrency exchange, I think Revolut should have warned its customer before payment 14 went ahead. There were then two further payments that day.

The following day, eight further payments were made to the same recipient, as shown in the table above. I think, by the third payment that day – payment 19 – Revolut should have stepped in again. These payments were all made around a minute apart to the same recipient and I think, particularly given the warning just one day prior, this should have been concerning to Revolut. But it didn't provide any warnings.

What kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look similar to this one will be entirely genuine. When Mr A made payment 14, Revolut would have known the payment was going to a cryptocurrency provider and ought to have provided a tailored written warning relevant to cryptocurrency investment scams. The warning should have tackled some of the key features of a scam.

The next day, I think further action should have been taken at the point of payment 19, given the continued spending to the same recipient, the fact that a warning should have been provided the day before, and the frequency of payments. I think a proportionate response would have been for Revolut to have attempted to establish the circumstances surrounding the payment before allowing it to debit Mr A's account. I think it should have done this by, for example, directing Mr A to its in-app chat to discuss the payment further.

If Revolut had provided a warning of the type described, would that have prevented the losses consumer suffered from these payments?

I agree with the conclusion reached by our investigator here, that a tailored written warning likely wouldn't have resonated with Mr A. He wasn't investing in cryptocurrency; he'd fallen victim to an employment scam. And I wouldn't have expected a warning at this time to provide an exhaustive list of things that could go wrong.

But I do think it's highly likely that the scam would have been unravelled at the point at which there was human intervention. As Mr A believed he was undertaking employment tasks for a legitimate company, I can't see why he wouldn't have answered truthfully.

Given that Mr A wasn't intending to invest and wasn't ultimately intending to purchase cryptocurrency, proportionate enquiry should have revealed the true purpose of his payments. And, with the prevalence of this scam, I think if Mr A had revealed what he was paying for, Revolut would have been able to work out he'd fallen victim to an employment scam.

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

In reaching my decision about what is fair and reasonable, I've taken into account that Mr A purchased cryptocurrency which credited an e-wallet held in his own name, rather than making a payment directly to the fraudsters. So, he remained in control of his money after he made the payments from his Revolut account.

But as I've set out 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 14 and then payment

19. In those circumstances it should have declined payment 19 and made further enquiries. If it had taken those steps, I'm satisfied it would have prevented the losses Mr A suffered. The fact that money used to fund the scam came from elsewhere and/or 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 consumer'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 consumer 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 he's 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 consumer's loss from payment 19 (subject to a deduction for Mr A's own contribution which I will consider below).

Should consumer bear any responsibility for their losses?

I've thought about whether Mr A should bear any responsibility for his loss. I recognise that here were relatively sophisticated aspects to this scam, not least a platform which was used to access and manage the user's apparent earnings and tasks and a WhatsApp conversation purportedly with others completing the work. But, all things considered, the scam appears to have been fairly implausible. While I haven't seen and heard everything Mr A saw, I think he ought to have questioned whether the activity he was tasked with, which doesn't appear to be particularly time-consuming or difficult, could really be capable of generating the returns promised.

So, given the overall implausibility of the scam, I think Mr A ought to have realised the job wasn't genuine. In the circumstances, I consider he should bear some responsibility for his losses.

I've concluded, on balance, that it would be fair to reduce Revolut's liability because of his role in what happened. So, I think a fair deduction is 50%.

Mr A, via his representative, responded. He wanted clarification around how the credits he'd received would be taken into account. I contacted both parties to make it clear that, in this particular case, I only intended the final credit to be deducted.

Mr A accepted my provisional decision. Revolut didn't respond.

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.

As neither party has provided any new information, I see no reason to depart from my provisional findings.

Putting things right

Revolut should:

- Refund Mr A for payments from (and including) payment 19, less any amounts recovered after this payment;
- Deduct 50% for contributory negligence;
- Add 8% simple interest per annum from the dates of loss to the date of settlement.

My final decision

For the reasons given, I uphold this complaint in part. I direct Revolut Ltd to make payment to Mr A, within 28 days of the acceptance of this decision, as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 December 2024.

Melanie Roberts
Ombudsman