

The complaint

Mrs S complains that Revolut Ltd won't refund over £30,000 she lost to a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. However, in brief, Mrs S fell victim to a fake job scam after she was contacted on a messaging app – I will call the scammer 'B'. B told Mrs S that she would be paid for completing a number of tasks, but she would also have to pay in funds to the task platform periodically, using cryptocurrency, to unlock more tasks and to receive her salary. Specifically, in this instance, Mrs S seems to have been required to make bookings for Hotel rooms.

Mrs S realised she had been scammed when B continued to pressure her to pay more into the scam without allowing her to withdraw her profits.

Mrs S made the following payments to the scammer.

Transaction Number	Date	Amount	Type of payment
	13 February 2023	£108.01	Credit
1	14 February 2023	£128.52	Debit Card
2	14 February 2023	£171.12	Debit Card
	14 February 2023	£314.68	Credit
3	15 February 2023	£129.70	Debit Card
4	15 February 2023	£302.60	Debit Card
5	15 February 2023	£605.20	Debit Card
6	15 February 2023	£432.44	Debit Card
7	15 February 2023	£1,105.92	Debit Card
8	15 February 2023	£1,973.67	Debit Card
9	15 February 2023	£2,538.90	Debit Card
10	15 February 2023	£43.19	Debit Card
11	16 February 2023	£3,001.91	Debit Card
12	2 May 2023	£450	Debit Card
13	4 May 2023	£35	Debit Card
14	4 May 2023	£245	Debit Card
	5 May 2023	£48.14	Credit

One of our investigators upheld the complaint because they thought that Revolut should have intervened during payment 7. She thought that, at this point, had questions been asked about the purpose of the payment, Mrs S would have explained that she was trying to send crypto to unlock money she had earned through an online job. Had this happened, she believed that Revolut could have provided a warning that it was likely a scam and therefore stopped Mrs S from sending any further payments to the scammer.

This case was then passed to a different investigator who reviewed it again. She concluded that Revolut should have provided a crypto warning during payment 7-8. But she didn't think

this would have stopped the scam, as the warning would not have detailed job scams. She thought that during payment 9 Revolut should have intervened with a human intervention and this would have then likely stopped the scam.

Revolut disagreed, and said the following in summary;

- It has no legal duty to prevent fraud and it must comply strictly and promptly with valid payment instructions. It 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, regulatory obligations, industry guidance, standards or codes of practice that apply to Revolut that oblige it to refund victims of authorised push payment (“APP”) fraud. By suggesting that it does need to reimburse customers, it says our service is erring in law.
- Our service appears to be treating Revolut as if it were a signatory to the 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 S was grossly negligent by ignoring the warnings it gave and failing to carry out sufficient due diligence.

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 Mrs S 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.

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.

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".

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.

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 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,

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;

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

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 S was at risk of financial harm from fraud?

I think by payment 7 a pattern was emerging which was indicative of someone was being scammed. Payment 7 was the fifth payment made in the same day and whilst the preceding payments were small in nature, multiple payments made to a cryptocurrency exchange on the same day is commonly a sign that someone is potentially being scammed.

That said, I think an appropriate intervention at that point would have been a written warning, setting out the common features of a cryptocurrency scam. But I don't think that this would have stopped the scam. I say this because a warning at this time would not have, in my view, addressed fake job scams as they were not as well known in February 2023.

However, when the payments continued, I think that Revolut should have intervened again during payment 9. This payment was the seventh payment in one day. Having thought carefully about the risk payment 9 presented, I think a proportionate response to that risk would be for Revolut to have attempted to establish the circumstances surrounding the payment, before allowing it to debit Mrs S's account. I think it should have done this by, for example, directing Mrs S to its in-app chat to discuss the payment further.

What did Revolut do to warn Mrs S?

My understanding is that no warnings were provided by Revolut.

If Revolut had intervened, would that have prevented the losses the consumer suffered from payment 9?

Mrs S doesn't appear to have been given any cover story by the scammers. So if Revolut had questioned her about these payments, I think it's likely she would have been honest about what they were for and how she had come across the job opportunity. So, Revolut would have likely discovered that she had been contacted via a messaging app by a company offering to pay her for completing tasks. I think it also would've discovered that Mrs S had been told that she would have to pay money into the scheme using cryptocurrency to unlock more tasks and to release her earnings and by this point she had made a number of payments and still had not received all of her earnings.

This is not how companies normally operate and having to send crypto to an employer to receive money that has been earned from a job that involves booking hotel rooms, would likely have raised suspicion with the Revolut employee. And I think that would've been the case, even if they were not intimately aware of the features of job scams. What was happening had the hallmarks of an advance fee scam wherein a victim is continually asked to make payments whilst being told that the next payment will be the last. I think they then would have been reasonably able to provide a warning that there was a significant risk that these payments were part of a scam and could have made that clear to Mrs S. I consider it likely that she would have acted on any such a warning.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Mrs S 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 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 businesses.

But as I've set out in some detail above, I think that Revolut still should have recognised that the consumer might have been at risk of financial harm from fraud when she made payment 9. And in those circumstances, I think 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 the consumer went on to suffer from that transaction onwards. The fact that the money used to fund the scam came from elsewhere and/or wasn't lost at the point it was transferred to consumer's own account does not alter that fact and I think Revolut can fairly be held responsible for the 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 the 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 the consumer could instead, or in addition, have sought to complain against those firms. But the consumer has not chosen to do that and ultimately, I cannot compel them to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce the consumer'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 the consumer's loss from payment 9 (subject to a deduction for consumer's own contribution, which I will consider below).

Should consumer bear any responsibility for their losses?

I've thought about whether Mrs S should bear any responsibility for her loss. In doing so, I've considered what the law says about contributory negligence, as well as what I consider to be fair and reasonable in all of the circumstances of this complaint.

I recognise that there 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.

But, at its heart, the scam appears to have been fairly implausible. While I haven't seen and heard everything that Mrs S saw, the scammer's explanation for how the scheme worked is implausible and I think Mrs S ought reasonably to have questioned whether the activity she was tasked with carrying out (which does not appear to be particularly time-consuming or arduous) could really be capable of generating the returns promised.

Given this, I think she ought reasonably to have had concerns about the legitimacy of the job offered. I also think that there were other things that should have been red flags for Mrs S. One of which was the requirement to send funds to acquire the profits she'd supposedly earned.

I also think receiving an unsolicited job offer, via a mobile messaging service app, should've been seen as unusual to Mrs S, and so should have led to her looking more deeply into this job she was apparently being offered. I also can see in the chats with the scammer she raises concerns that it might be a scam and despite this, she then sent the scammer further funds.

So, given the overall implausibility of the scam, I think she ought to have realised that the scheme wasn't genuine. So in those circumstances, she should bear some responsibility for her losses.

I've concluded, on balance, that it would be fair to reduce the amount Revolut pays Mrs S because of her role in what happened. Weighing the fault that I've found on both sides, I think a fair deduction is 50%.

Could Revolut have done anything to recover Mrs S's money?

The payments were made by card to a cryptocurrency provider, into an account in her own name. It was only when Mrs S sent that cryptocurrency on to the fraudsters did the loss occur. So, Revolut would not have been able to recover the funds. In addition, I don't consider that a chargeback would have had any prospect of success given there's no dispute that the cryptocurrency exchange provided cryptocurrency to Mrs S, which she subsequently sent to the fraudsters. So, I don't think Revolut should have done anything more to try and recover Mrs S's money.

Putting things right

To resolve this complaint Revolut Ltd should:

- Refund the payments Mrs S lost to the scam from (and including) payment 9, less any credits received after this point. Then there should be a deduction of 50%, in recognition of Mrs S's own contributory negligence towards her loss.
- Pay 8% simple interest per year on the amount due to Mrs S after the deduction is made, calculated from the date of loss until the date of settlement, minus any applicable tax.

My final decision

Because of the reasons given above, I uphold this complaint in part and require Revolut Ltd to put things right in the way I've set out above, in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 6 February 2025.

Charlie Newton
Ombudsman