

The complaint

Mr C complains about Revolut Ltd.

He says that Revolut didn't do enough to protect him when he fell victim to a cryptocurrency investment scam and would like Revolut to refund him the money he has lost.

What happened

Mr C was doing some research online about investments and came across a company offering investment in crypto.

He registered his interest and was assigned an account manager who provided him with access to a fake platform where he would see his supposed investments in real time, and downloaded AnyDesk on their instruction.

Mr C was persuaded that the company was genuine and agreed to make the following payments.

| Payment | Date | Payee | Payment type | Amount |
|---------|------------------|-------|-------------------|--|
| 1 | 22 February 2023 | W | Debit card | £994.62 |
| 2 | 9 March 2023 | W | Debit card | £1,786.78 |
| 3 | 14 March 2023 | W | Debit card | £1,491.81 |
| 4 | 15 March 2023 | W | Debit card | £1,200.45 |
| 5 | 16 March 2023 | W | Debit card | £2,785.26 |
| 6 | 17 March 2023 | W | Debit card | £4,084.69 |
| 7 | 23 March 2023 | W | Debit card | £634.48 |
| 8 | 29 March 2023 | W | Debit card | 562.80 EUR |
| | | | Total loss | £12,978.09 562.80 EUR |

However, once Mr C asked to withdraw his funds, he was asked for further funds. Initially Mr C paid this as he was anxious not to lose the money he had already paid, however even after making these payments, Mr C still couldn't make a withdrawal and concluded that he had been scammed,

Mr C made a complaint to Revolut about what had happened, but it didn't uphold his complaint, so he brought his complaint to this Service.

Our Investigator looked into things and thought that Mr C's complaint should be upheld in part. Mr 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.

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 C 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

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.

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, 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-

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

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 Mr C was at risk of financial harm from fraud?

It isn't in dispute here that Mr C has fallen victim to a cruel scam – or that he authorised the payments himself via transfers to his cryptocurrency wallet (from where that cryptocurrency was subsequently transferred to the scammer).

However, looking at the payments in question, I think that Revolut should have had concerns about what Mr C was doing from payment six. I think that the payments up to this point were relatively low in value, and not made in particularly quick succession – and Revolut can't reasonably be expected to monitor every payment, including those going to a cryptocurrency exchange. But by payment six, there was a clear pattern emerging in the payments – they were increasing in frequency and amount – and had more than quadrupled in value from the point at which Mr C made his first payment.

By February 2023, when these transactions took place, firms like Revolut had been aware of the risk of multi-stage scams involving cryptocurrency for some time. Scams involving cryptocurrency have increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency scams have continued to increase since. They reached record levels in 2022.

During that time, cryptocurrency was typically allowed to be purchased through many high street banks with few restrictions. By the end of 2022, however, many of the high street banks had taken steps to either limit their customer's ability to purchase cryptocurrency using their bank accounts or increase friction in relation to cryptocurrency related payments, owing to the elevated risk associated with such transactions.

This left a smaller number of payment service providers, including Revolut, that allowed customers to use their accounts to purchase cryptocurrency with few restrictions. These restrictions – and the reasons for them – would have been well known across the industry.

I recognise that, as a result of the actions of other payment service providers, many customers who wish to purchase cryptocurrency for legitimate purposes will be more likely to use the services of an EMI, such as Revolut. And I'm also mindful that a significant majority of cryptocurrency purchases made using a Revolut account will be legitimate and not related to any kind of fraud (as Revolut has told our service).

However, our service has also seen numerous examples of consumers being directed by fraudsters to use Revolut accounts in order to facilitate the movement of the victim's money from their high street bank account to a cryptocurrency provider, a fact that Revolut is aware of.

So, taking into account all of the above I am satisfied that by the end of 2022, prior to the payments Mr C made, Revolut ought fairly and reasonably to have recognised that its customers could be at an increased risk of fraud when using its services to purchase cryptocurrency, notwithstanding that the payment would often be made to a cryptocurrency wallet in the consumer's own name.

To be clear, I'm not suggesting as Revolut argues that, as a general principle, Revolut should have more concern about payments being made to a customer's own account than those which are being made to third party payees.

As I've set out in some detail above, it is the specific risk associated with cryptocurrency in that, in some circumstances, should have caused Revolut to consider transactions to cryptocurrency providers as carrying an increased risk of fraud and the associated harm.

Given what Revolut knew about the destination of the payment, I think that the circumstances should have led Revolut to consider that Mr C was at heightened risk of financial harm from fraud.

In line with good industry practice and regulatory requirements, I am satisfied that it is fair and reasonable to conclude that Revolut should have warned its customer before this payment went ahead.

To be clear, I do not suggest that Revolut should provide a warning for every payment made to cryptocurrency. Instead, as I've explained, I think it was a combination of the characteristics of this payment (combined with those which came before it, and the fact the payment went to a cryptocurrency provider) which ought to have prompted a warning.

Revolut argues that it is unlike high street banks in that it provides cryptocurrency services in addition to its electronic money services. It says that asking it to 'throttle' or apply significant friction to cryptocurrency transactions made through third-party cryptocurrency platforms might amount to anti-competitive behaviour by restricting the choice of its customers to use competitors. As I have explained, I do not suggest that Revolut should apply significant friction to every payment its customers make to cryptocurrency providers.

However, for the reasons I've set out above I'm satisfied that by February 2023 Revolut should have recognised at a general level that its customers could be at increased risk of fraud when using its services to purchase cryptocurrency and, therefore, it should have taken appropriate measures to counter that risk to help protect its customers from financial harm from fraud. Such proportionate measures would not ultimately prevent consumers from making payments for legitimate purposes.

However, Revolut didn't intervene in any of the payments Mr C made.

What kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning considering the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Revolut's duty to make payments promptly, as well as what I consider to have been good industry practice at the time this payment was made.

Taking that into account, I think Revolut ought, when Mr C attempted to make payment six, , knowing (or strongly suspecting) that the payment was going to a cryptocurrency provider, to have provided a warning (whether automated or in some other form) that was specifically about the risk of cryptocurrency scams, given how prevalent they had become by the end of 2022. In doing so, I recognise that it would be difficult for such a warning to cover off every permutation and variation of cryptocurrency scam, without significantly losing impact.

So, at this point in time, I think that such a warning should have addressed the key risks and features of the most common cryptocurrency scams – cryptocurrency investment scams. The warning Revolut ought fairly and reasonably to have provided should have highlighted, in clear and understandable terms, the key features of common cryptocurrency investment

scams, for example referring to: an advertisement on social media, promoted by a celebrity or public figure; an 'account manager', 'broker' or 'trader' acting on their behalf; the use of remote access software and a small initial deposit which quickly increases in value.

I recognise that a warning of that kind could not have covered off all scenarios. But I think it would have been a proportionate way for Revolut to minimise the risk of financial harm to Mr C by covering the key features of scams affecting many customers but not imposing a level of friction disproportionate to the risk the payment presented.

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

I've thought carefully about whether a specific warning covering off the key features of cryptocurrency investment scams would have likely prevented any further loss in this case. And on the balance of probabilities, I think it would have. There were several key hallmarks of common cryptocurrency investment scams present in the circumstances of Mr C's payments, such as being assisted by a broker and being asked to download remote access software so they could help him open cryptocurrency wallets.

Mr C wasn't given any kind of cover story to tell Revolut about what was happening – or told to ignore or disregard any warnings provided to him – so I'm satisfied that had Revolut provided such a warning, Mr C would have paid head to it – and not continued to make the payment.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Revolut was neither the initial source of the funds, or the ultimate point of loss.

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

Should Mr C bear any responsibility for his losses?

In deciding this complaint, I have also considered the actions of Mr C – and in doing so if he should share some liability for the loss. Mr C has already accepted the recommendation of our Investigator on this matter, so I won't go into too much detail here.

However, in summary, I am satisfied that Mr C should share responsibility with Revolut on a 50% basis from the point I think Revolut should have intervened (payment six).

I say this because I don't think that the profits set out by the scammer were reasonable – and I think that Mr C should have questioned whether these were too good to be true before parting with his money. Mr C also continued to make payments to be able to access his profit far in excess of what those supposed profits actually were.

I have also seen that Mr C expressed doubts to the scammer that he felt he was being conned on 20 March 2023, but still continued to make payments after this point.

Putting things right

Revolut Ltd should refund Mr C 50% of payments six to eight. It should also pay Mr C 8% simple interest on this amount from the date the payments were made until settlement (less 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 Mr C to accept or reject my decision before 24 April 2025.

Claire Pugh
Ombudsman