

## The complaint

Miss V complains that Revolut Ltd ('Revolut') won't refund her after she fell victim to a scam.

## What happened

In 2023, Miss V fell victim to a phishing scam. As a result, she shared her bank card details for an account she held at another bank – I'll refer to them as bank N. Miss V realised it was a scam and cancelled her bank card.

Shortly after this, Miss V received a call from someone who said they worked for the fraud team at bank N. They knew that Miss V had fallen victim to a phishing scam, and knew personal information about Miss V. They told Miss V that her account with bank N had been compromised and that someone was trying to make a purchase and take out a loan in her name.

Miss V says she received a text from bank N, which appeared in a thread of genuine messages. She also received an email which appeared to come from bank N.

Miss V was told she needed to apply for a loan with bank N, in order to cancel the one applied for by the fraudster. So, Miss V took out a personal loan with bank N. Unfortunately, this was a scam.

Miss V was persuaded that an account she held with another bank (who I'll refer to as bank H) had also been compromised, but the caller was working with the fraud team from bank H. To keep her money safe, Miss V was told she needed to transfer money from her accounts with bank N and bank H to her Revolut account, and then to a company used to safeguard customers' money in these situations.

When Miss V made her first payment from bank N, she was shown a new payee warning as well as a low friction warning. Miss V moved the value of the loan, as well as the available funds in her arranged overdraft facility from bank N to Revolut.

Bank H didn't intervene on any of the payments Miss V made to her Revolut account. Miss V gave her Revolut card details to the caller, so they could move her money to the "safe account", and the following card payments were made from her Revolut account. In order to authorise the card payments, Miss V received a prompt on her Revolut registered device and had to go into the Revolut app and confirm each payment.

Date	Time	Details of transaction	Amount
17.5.2023	17:44	Card payment to company T	£5,000
17.5.2023	18:04	Card payment to company T	£3,480
17.5.2023	18:15	Card payment to company T	£1,500
17.5.2023	18:24	Card payment to company T	£5,000

Miss V was told that an appointment had been arranged with a local branch of bank H for the next day and the funds would be recovered from the safe account at that point. After making the last payment Miss V asked the caller for more specifics so she would know what to tell

bank H the next day and says the caller became dismissive and didn't answer her questions. At this point Miss V realised she was the victim of a scam.

Miss V reported the scam to bank H, who declined to refund her.

When Miss V complained to bank N, they also declined to refund her. But bank N agreed to reverse the overdraft caused by the payments she'd made.

Miss V reported the scam to Revolut, asking that they refund the card payments. Revolut advised they couldn't raise a chargeback as she had authorised the payments.

Miss V wasn't happy with Revolut's response, so she brought a complaint to our service.

An investigator looked into Miss V's complaint and upheld it, recommending that Revolut fully refund Miss V for all of the payments. The investigator felt Revolut should've intervened when Miss V made the first payment, and if they had, her loss would've been prevented.

Revolut disagreed with the investigator's opinion and raised a number of concerns:

- Revolut highlighted what they considered to be a number of red flags which should've concerned Miss V based on what the scammer was asking her to do.
- Revolut said Miss V breached their terms and conditions by sharing her card and bank information with the scammer.
- Revolut didn't feel that the payments warranted intervention, and said even if they had intervened, it was likely that Miss V would've made the payments regardless.
- Revolut suggested that Miss V had control over the account with T, which meant the payments were self-to-self. So, Miss V wasn't the victim of APP fraud, and we were making an error in law by holding Revolut liable for her loss.
- Revolut are merely an intermediary link and no liability has been assessed in relation to bank N and bank H.
- Miss V lost control of the funds when they were in the account with T, so liability for her loss sits with T.

As the case couldn't be resolved informally, it was passed to me to review.

Having reviewed the case, I reached a different answer than the investigator. So, I issued a provisional decision, giving both parties a chance to provide any further evidence they want to be considered before a final decision is issued.

### **My provisional decision**

In my provisional decision 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 Miss V 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 May 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;<sup>1</sup>
- 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 May 2023, Revolut, when 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)<sup>2</sup>.
- 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 Code<sup>3</sup>, 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

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<sup>1</sup> 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/](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/)

<sup>2</sup> 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.

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

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

*Should Revolut have recognised that Miss V was at risk of financial harm from fraud?*

Having considered what Revolut knew about the payments at the time they received the payment instruction, I'm persuaded it ought to have been concerned about the first payment.

I say this because Miss V had been using her Revolut account for a month before making the payment and was only making small value payments of less than £500. So, the first payment of £5,000 was unusual and out of character.

I wouldn't have expected Revolut to have intervened for the next three payments, as they were going to the same payee and didn't show an escalating payment pattern.

But, I would've expected Revolut to intervene again when Miss V made the last payment. At this point, Miss V had made four payments in a short space of time and the total she had transferred was over £15,000.

*What did Revolut do to warn Miss V?*

Revolut hasn't provided any evidence that Miss V was shown warnings when she made any of these payments.

*What kind of warning should Revolut have provided?*

For the first payment, I'd expect that intervention to be an onscreen warning covering general scams that were common. I say this as the payment wasn't identifiably related to cryptocurrency, and Miss V had said the reason she opened her account was for: stays, spending abroad, vaults and overseas. So, the only concerning factor about the payment was the size of it, and a general onscreen warning would've been proportionate in these circumstances.

When Miss V made the last payment, Revolut should've offered human intervention, which is likely to have meant Miss V being referred through their in-app chat to a specialist.

As part of that intervention, I'd expect Revolut to have asked Miss V questions about the payment she was making in order to identify if she might be at risk of financial harm and what type of scam she might be falling victim to. I think basic questions are likely to have resulted in Miss V telling Revolut that she believed her account at bank N had been compromised, she was told she had to move money to keep it safe and that she believed the account with T was in her name. In response, Revolut is likely to have decided that Miss V was potentially the victim of a safe account scam.

So, I would've expected Revolut to have explained the key features of safe account scams. This would've included highlighting that banks or EMIs would never ask her to move her money if her account was compromised, that scammers can spoof the phone number of genuine banks and EMIs, and banks and EMIs wouldn't deal with the compromise of an account with another firm.

*If Revolut had provided a warning of the type described, would that have prevented the losses Miss V suffered?*

I'm not satisfied that an onscreen general warning about scams would've impacted on Miss V's decision to make the first payment. I say this as Miss V was shown a warning by bank N and this didn't prevent Miss V from making her payments. So I'm not satisfied that I can fairly say that Revolut providing an onscreen warning would've prevented Miss V's loss.

But, I think human intervention by Revolut on the last payment, more likely than not would've uncovered the scam and prevented Miss V from making the payment. I think Revolut explaining the key features of a safe account scam would've resonated with Miss V given the circumstances under which she was making the payments. As a result, I don't think Miss V

would've continued with making the last payment and her loss on that payment could've been prevented.

*Is it fair and reasonable for Revolut to be held responsible for Miss V's loss?*

In reaching my decision about what is fair and reasonable, I have taken into account that the payments from Miss V's Revolut account were funded by payments from her accounts with bank N and bank H.

But as I've set out in some detail above, I think that Revolut still should have recognised that Miss V might have been at risk of financial harm from fraud when she made her last payment, 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 Miss V suffered. The fact that the money used to fund the scam came from elsewhere or wasn't lost at the point it was transferred to Miss V's own account does not alter that fact and I think Revolut can fairly be held responsible for Miss V'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 Miss V 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 Miss V could instead, or in addition, have sought to complain against those firms. But Miss V 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 Miss V'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 Miss V's loss on the last payment.

*Should Miss V bear any responsibility for her loss?*

I'm not satisfied in this case that Miss V should bear any responsibility for her loss because:

- The scammers took Miss V through security checks each time they called, which was in line with what she'd expect from her genuine bank.
- She was told that an appointment had been made with her local branch, which would've provided reassurance.
- Miss V had fallen victim to a phishing scam and had disclosed some bank details, so it would've made it more persuasive that someone could have compromised her account.
- Miss V received a text from bank N, which appeared in the same thread as genuine messages from them.

- Miss V was contacted during a stressful time as she was moving house and starting a new job. Also, pressure was put on Miss V about the importance of acting immediately to safeguard her money.
- Miss V has also told us that she had a panic attack during the calls with the scammers, which impeded her ability to step back and consider what she was being told.

As I'm not satisfied that Miss V should share responsibility for her loss, Revolut should refund 100% of the final payment.

### Chargeback

As the card payments were made to a money transfer service, a chargeback claim wouldn't have been successful. I say this as the merchant (in this case T) provided the service paid for. Chargeback doesn't look at the ultimate destination of the funds, only whether the merchant met their obligations. So, I'm satisfied that Revolut acted reasonably in not raising a chargeback for Miss V.

My provisional decision was that I intended to uphold the complaint and ask Revolut to refund 100% of the last payment Miss V made and pay simple interest on that refund at 8% per year, calculated from the date of the payment until the date of settlement.

### **Responses to my provisional decision**

Miss V responded saying she accepted my provisional decision.

Revolut haven't responded.

Under the Dispute Resolution Rules (found in the Financial Conduct Authority's Handbook), DISP 3.5.13, says, if a respondent (in this case Revolut) fails to comply with a time limit, the ombudsman may proceed with the consideration of the complaint.

As the deadline for responses to my provisional decision has expired, I'm going to proceed with issuing my final decision. However, I think it's unlikely that Revolut would've provided any new evidence or information that would've changed the outcome of the case

### **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 have provided any new evidence for me to consider, I see no reason to reach a different answer than I did in my provisional decision.

### In summary

I'm satisfied that Revolut should've had concerns when Miss V made her first payment. In response, I'd expect them to have provided an onscreen warning that talked about the most common scams. But I'm not satisfied that this would've prevented Miss V from making the payment, as she disregarded an onscreen warning provided by bank N.

I wouldn't have expected Revolut to have been concerned with the subsequent payments Miss V made, until she made the last payment. I say this because Miss V had made four payments in a short space of time for over £15,000.

At this point I would've expected human intervention, which is likely to have been Revolut referring Miss V to their in-app chat so they could ask her questions about the payment. I think basic questions would've identified that Miss V was making payments to move money to a safe account and if Revolut had explained the key features of a safe account scam – the scam would've been uncovered and the loss on the last payment prevented.

I'm not persuaded that Miss V should share responsibility for her loss with Revolut, for the



reasons given above, so I'm satisfied that Revolut should refund 100% of the last payment that Miss V made. Revolut are also required to pay simple interest of 8% per year on that refund, calculated from the date of payment until the date of settlement.

### **Putting things right**

To put things right I require Revolut Ltd to:

- Refund 100% of Miss V's last payment – being £5,000
- Pay interest on that refund at 8% simple per year, calculated from the date of the payment until the date of settlement.\*

\*If Revolut considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss V how much it's taken off. It should also give Miss V a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

My final decision is that I uphold this complaint against Revolut Ltd and require them to compensate Miss V, as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss V to accept or reject my decision before 8 January 2025.

Lisa Lowe  
**Ombudsman**