

## **The complaint**

Mr G is complaining about Revolut Ltd because it declined to refund money he lost as a result of fraud.

## **What happened**

On 23 March 2023, Mr G received a call from somebody claiming to be from his bank's fraud department. Earlier in the week he says he'd responded to a phishing email and had called his bank to cancel his card and he assumed the call he received was linked to that. He says the caller told him his account had been compromised and he needed to transfer money to a safe account using his existing Revolut account, which he'd had for some time, as a conduit.

As a result of this call, Mr G made five transfers from his bank to Revolut totalling around £7,100. He then made a single payment to the scammer's account (also with Revolut) for £7,241.46. This reduced the balance of his Revolut account to £1.

Mr G contacted Revolut to report the scam the following day, 24 March. Unfortunately, the scammer had already moved the money out of the receiving Revolut account. I understand it was used to purchase cryptocurrency and attempts to recover it from the cryptocurrency provider were unsuccessful. Thankfully, Mr G was able to recover £2,600 from his bank as they related to card payments but he remains £4,641.46 out of pocket.

## **My provisional decision**

After the complaint was referred to me, I issued my provisional decision setting out why I thought it should be upheld. My reasons were as follows:

*In broad terms, the starting position at law is that an Electronic Money Institution such as Revolut is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, 'authorised' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went. In this case, there's no dispute that Mr G authorised the above payment to the scammer.*

*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 version of the terms provided by Revolut, which formed its contract with Mr G, modified the starting position described in *Philipp*, by expressly requiring Revolut to refuse or delay a payment "if legal or regulatory requirements prevent us from making the payment or mean that we need to carry out further checks".

So Revolut was required by the implied terms of its contract with Mr G and the Payment Services Regulations to carry out his instructions promptly, except in the circumstances set out in its contract, which included where regulatory requirements meant it needed to carry out further checks.

Whether or not Revolut was required to refuse or delay a payment for one of the reasons set out in its contract, the basic implied requirement to carry out an instruction promptly did not in any event mean Revolut was required to carry out the payments immediately<sup>1</sup>. Revolut could comply with the requirement to carry out payments promptly while still giving fraud warnings, or making further enquiries, prior to making the payment.

And, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Revolut should in March 2023 fairly and reasonably have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances (irrespective of whether it was also required by the express terms of its contract to do so).

In reaching the view that Revolut should have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances, I am mindful that in practice all banks and EMI's like Revolut do in fact seek to take those steps, often by:

- using algorithms to identify transactions presenting an increased risk of fraud;<sup>2</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; and

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<sup>1</sup> The Payment Services Regulation 2017 Reg. 86(1) states that "the payer's payment service provider must ensure that the amount of the payment transaction is credited to the payee's payment service provider's account **by the end of the business day following the time of receipt of the payment order**" (emphasis added).

<sup>2</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/)

- *providing increasingly tailored and specific automated warnings, or in some circumstances human intervention, when an increased risk of fraud is identified.*

*In reaching my conclusions about what Revolut ought fairly and reasonably to have done, I am also mindful that:*

- *Electronic Money Institutions like Revolut are required to conduct their business with “due skill, care and diligence” (FCA Principle for Businesses 2), “integrity” (FCA Principle for Businesses 1) and a firm “must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems” (FCA Principle for Businesses 3)<sup>3</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>4</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 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).*

*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 March 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*

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<sup>3</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>4</sup> BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

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; and

- 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).

Taking these points into account, I need to decide whether Revolut acted fairly and reasonably in its dealings with Mr G.

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

By March 2023, Mr G had held his Revolut account for more than a year. A review of the transactions during that time show all transactions in and out were low value, with all payments out less than £100. On 23 March, Mr G transferred in a total of over £7,000 in the space of less than an hour and then paid the entire account balance (save for £1 that remained) to a new payee he hadn't dealt with before around 30 minutes later.

The activity on this day was entirely out of character with how Mr G had used the account previously. I think the factors I've outlined are also consistent with how many common scams are operated and should have alerted Revolut to suspect Mr G may be at risk of harm from fraud. The fact Revolut's fraud prevention measures were employed before the payment was processed suggests it reached the same conclusion at the time.

What did Revolut do to warn Mr G?

As Mr G set up the new payee, Revolut says it initially provided a generic on-screen warning that said:

*Do you know and trust this payee?*

*If you're unsure, don't pay them, as we may not be able to help you get your money back. Remember, fraudsters can impersonate others, and we will never ask you to make a payment.*

After this was acknowledged by Mr G, Revolut says it conducted a further real-time fraud risk assessment. Following this assessment, the payment was held and Mr G was sent a set of dynamic educational story messages to warn him about the associated risks.

This included a screen that said:

*This transfer may be a scam.*

*Our systems identified this transfer highly unusual, and put it on hold.*

*Your transfer is more unusual than 99.2% of all Revolut transfers.*

When he chose to continue with the payment, Revolut says Mr G was then shown two further messages containing generic information about the amount lost to fraud and scams each year and the level of sophistication scammers are able to achieve.

*The warning screens provided to us by Revolut in connection with this complaint also include one asking the customer to state the purpose of the payment. But it hasn't said which option, if any, was selected by Mr G.*

*While Revolut accepts the circumstances of the payment were unusual enough to generate these warnings, they weren't so unusual that it felt further intervention was warranted. I disagree with that assertion. In particular, I'm conscious the warnings provided were generic rather than related to any specific type of scam and wouldn't necessarily have resonated with Mr G in the same way as a more clearly targeted warning that related directly to the type of scam that was taking place. On balance, I don't think the warnings provided were proportionate to the risks presented by the payment.*

*What kind of warning should Revolut have provided?*

*Having thought carefully about the risk the payment presented, I think a proportionate response to that risk would have been for Revolut to attempt to establish the surrounding circumstances before allowing it to leave Mr G's account. This could have been achieved by directing Mr G to its in-app chat to discuss the payment further for example.*

*To establish the circumstances in which the payment was being made, Revolut should have asked Mr G a number of open questions. This would have included questions intended to establish the purpose of the payment, whether anyone was telling him to make the payment and why he was essentially emptying his account.*

*If Revolut had intervened in this way, would that have prevented Mr G's losses?*

*There's nothing to indicate Mr G was being coached by the scammer or that he was encouraged to be untruthful if Revolut contacted him. If he'd been asked appropriate questions about the payment, I've no reason to believe he wouldn't have answered them accurately.*

*Once Mr G explained that he thought he was speaking to his bank and had been told to move money to another account to keep it safe, I think Revolut should have identified this was a scam. Safe account scams such as this are a well-known type of scam and Revolut should have been familiar with how they operate. Armed with this information, it could have provided a very clear warning that explained, as a minimum, that a bank would never ask him to move money to a new account, that phone numbers could be spoofed and that he was falling victim to a scam.*

*On balance, I think such a warning would most likely have resonated with Mr G and he would have chosen not to proceed with the payment. So if Revolut had acted as I believe it should have in this situation, I think it follows that Mr G's losses would have been avoided.*

*What about the actions of Mr G's bank?*

*This was a multi-stage fraud that saw Mr G move money from his bank to Revolut and then onto the scammer. This complaint is about Revolut and it's not appropriate for me to comment here on whether or not his bank should have identified he was at risk of harm from fraud and whether it reacted proportionately. But to obtain a full picture of what took place, we have contacted Mr G's bank to establish if it attempted any kind of intervention before transferring his money to Revolut and, if so, how this affects my assessment of whether or not he acted reasonably in the circumstances.*

*Mr G made five payments into his Revolut account as part of the fraud and his bank has told us it required him to select the purpose for one of them. In response, Mr G answered that he was 'paying your other account'. The list of options provided didn't include anything about moving money to a safe account and I'm satisfied this was the best fit of the options available. Mr G's bank also told us that it tried to call him at the time but wasn't able to get through before the payments were processed.*

*On balance, I don't think there was any intervention by Mr G's bank that should particularly have alerted him to the fact he was speaking to a scammer or that changes my views about how Revolut should have dealt with this situation and whether he acted reasonably in the circumstances with which he was faced.*

*Should Mr G bear any responsibility for his losses?*

*In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.*

*Having considered the matter carefully, I don't think that there should be any deduction from the amount reimbursed. This is where my conclusions differ from those set out by the investigator previously.*

*The tactics employed by the scammers are common, but nonetheless potentially captivating to anyone unfamiliar with them. In this particular case, I'm conscious Mr G had only recently contacted the bank to cancel his card after he opened a phishing email and I think a call that purported to be from his bank telling him his account was at risk of being compromised would have seemed particularly convincing in those circumstances. Particularly as the screenshots he's provided appear to show his bank's number was spoofed so the display appeared to show it was his bank calling. In these circumstances, I think it was reasonable for Mr G to have believed the call was indeed from his bank and that its purpose was to help him protect his money.*

*I think it's also relevant that the scam was carried out over a very short period of time on a single day, meaning Mr G didn't have a chance to reflect on what was happening before his money had been moved. Further, the call he received was intended to create a sense of panic and urgency because there was a real risk he'd lose his money. In these circumstances, I don't think it was necessarily unreasonable for him to do things he wouldn't normally have done when that sense of panic and urgency wasn't present and he had time to reflect on what was happening.*

*As I've already set out, I can't put significant weight on the warnings Revolut provided as they lacked sufficient context and relevance for me to fairly conclude Mr G acted unreasonably in moving past them. I'm also conscious that he was on the phone with the scammer while he was going through these screens and would presumably have been reassured as he did so because he thought he was talking to his bank and acting in a way that was intended to protect his money.*

*Overall, I don't think there should be a deduction to the amount reimbursed. Mr G clearly didn't want to lose his money. His actions cannot be explained by carelessness or a desire for personal gain. There's little other explanation than that he believed what he was told by a very sophisticated scammer and in the circumstances I don't find that belief to be unreasonable.*

*In conclusion*

*For the reasons I've explained, I don't think Revolut acted fairly and reasonably in its dealings with Mr G. If it had carried out an appropriate intervention, I think the scam would have been stopped and I'm currently proposing to uphold this complaint.*

### **The responses to my provisional decision**

Mr G accepted my provisional decision and Revolut didn't make any further submission.

### **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 made any further submissions, my findings haven't changed from those I set out previously.

### **Putting things right**

The principal aim of any award I make is to return Mr G to the position he'd be in but for the inappropriate actions of Revolut. If it had taken action to stop the scam as I believe it should have, I think Mr G would have retained his money.

To put things right, Revolut should pay Mr G compensation of A + B; where:

- A = £4,641.46, representing the outstanding loss resulting from the scam; and
- B = simple interest on A at 8% per year from 23 March 2023 to the date compensation is paid.

Interest is intended to compensate Mr G for the period he was unable to use this money. HM Revenue & Customs (HMRC) requires Revolut to deduct tax from any interest. It must provide Mr G with a certificate showing how much tax has been deducted if he asks for one.

I'm satisfied this represents a fair and reasonable settlement of this complaint.

### **My final decision**

My final decision is that I uphold this complaint. Subject to Mr G's acceptance, Revolut Ltd should now put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 February 2025.

James Biles  
**Ombudsman**