

The complaint

Mrs B says Revolut Ltd didn't do enough to protect her when she fell victim to a cryptocurrency investment scam.

What happened

Mrs B was contacted out of the blue on social media by someone who claimed to specialise in cryptocurrency investing. Mrs B made payments to this opportunity from her Revolut account in September 2023, before realising it was a scam when she kept being asked to pay more funds to withdraw her profits.

Mrs B complained to Revolut and said it ought to have warned her about these scams when she was making the payments. She said if it had, it would've prevented her losses. Revolut didn't uphold her complaint. It said Mrs B had completed stronger authentication for the payments and they couldn't be recovered by a chargeback claim.

Mrs B brought her case to our service and our Investigator partially upheld it. Revolut disagreed with their view, so the case has been passed to me for a 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 deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

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 B 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 implied terms of its contract with the consumer and the Payment Services Regulations to carry out their instructions promptly, except in the circumstances expressly set out in its contract, which included where regulatory requirements meant it needed to carry out further checks.

I am satisfied that, to comply with regulatory requirements (including the Financial Conduct Authority's “Consumer Duty”, which requires financial services firms to act to deliver good outcomes for their customers) Revolut should in September 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.

So, Revolut's standard contractual terms produced a result that limited the situations where it could delay or refuse a payment – so far as is relevant to this complaint – to those where applicable regulations demanded that it do so, or that it make further checks before proceeding with the payment. In those cases, it became obliged to refuse or delay the payment. And, I'm satisfied that those regulatory requirements included adhering to the FCA's Consumer Duty.

The Consumer Duty – as I explain below – requires firms to act to deliver good outcomes for consumers.

Whilst the Consumer Duty does not mean that customers will always be protected from bad outcomes, Revolut was required act to avoid foreseeable harm by, for example, operating adequate systems to detect and prevent fraud. The Consumer Duty is therefore an example of a regulatory requirement that could, by virtue of the express terms of the contract and depending on the circumstances, oblige Revolut to refuse or delay a payment notwithstanding the starting position at law described in *Philipp*.

I have taken both the starting position at law and the express terms of Revolut's contract into account when deciding what is fair and reasonable. I am also mindful that in practice, whilst its terms and conditions referred to both refusal and delay, the card payment system rules meant that Revolut could not in practice delay a card payment, it could only decline (‘refuse’) the payment.

But 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).

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 September 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 do 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 September 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).
- 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 Code², which a number of banks and trade associations were

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

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).

- Since 31 July 2023, under the FCA's Consumer Duty³, regulated firms (like Revolut) must act to deliver good outcomes for customers (Principle 12) and must avoid causing foreseeable harm to retail customers (PRIN 2A.2.8R). Avoiding foreseeable harm includes ensuring all aspects of the design, terms, marketing, sale of and support for its products avoid causing foreseeable harm (PRIN 2A.2.10G). One example of foreseeable harm given by the FCA in its final non-handbook guidance on the application of the duty was *"consumers becoming victims to scams relating to their financial products for example, due to a firm's inadequate systems to detect/prevent scams or inadequate processes to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers"*⁴.
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency⁵ 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 September 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

³ Prior to the Consumer Duty, FCA regulated firms were required to "pay due regard to the interests of its customers and treat them fairly." (FCA Principle for Businesses 6). As from 31 July 2023 the Consumer Duty applies to all open products and services.

⁴ The Consumer Duty Finalised Guidance FG 22/5 (Paragraph 5.23)

⁵ Keeping abreast of changes in fraudulent practices and responding to these is recognised as key in the battle against financial crime: see, for example, paragraph 4.5 of the BSI Code and PRIN 2A.2.10(4)G.

particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;

- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- 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 September 2023, Revolut should in any event have taken these steps.

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

It isn't in dispute that Mrs B has fallen victim to a cruel scam here, nor that she authorised the payments she made by card payments to her cryptocurrency wallet (and then that cryptocurrency was subsequently transferred to the scammer).

By September 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. And by September 2023, when these payments took place, further restrictions were in place. 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 Mrs B made in September 2023, 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 (under the Consumer Duty or otherwise), 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 September 2023 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.

In those circumstances, as a matter of what I consider to have been fair and reasonable, good practice and to comply with regulatory requirements (including the Consumer Duty), Revolut should have had appropriate systems for making checks and delivering warnings before it processed such payments. And as I have explained Revolut was also required by the terms of its contract to refuse or delay payments where regulatory requirements meant it needed to carry out further checks.

Taking all of the above into account, and in light of the increase in multi-stage fraud, particularly involving cryptocurrency, I don't think that the fact the payments in this case were going to an account held in Mrs B's own name should have led Revolut to believe there wasn't a risk of fraud.

I'm in agreement with our Investigator that Revolut didn't have reason to intervene on Mrs B's initial payments to this scam. But I think by the time she made the third payment on 19 September 2023, she was then attempting to send over £3,600 that day to merchants Revolut should've been able to identify as cryptocurrency providers. This was a comparatively higher value payment and the fourth cryptocurrency payment in two days. So I do think it should've recognised a risk of financial harm at this time.

What did Revolut do to warn Mrs B? And what kind of warning should Revolut have provided?

I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Revolut's primary duty to make payments promptly.

As I've set out above, the FCA's Consumer Duty, which was in force at the time these payments were made, requires firms to act to deliver good outcomes for consumers including acting to avoid foreseeable harm. In practice this includes maintaining adequate systems to detect and prevent scams and to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers.

I'm mindful that firms like Revolut have had warnings in place for some time. It, along with other firms, has developed those warnings to recognise both the importance of identifying the specific scam risk in a payment journey and of ensuring that consumers interact with the warning.

In light of the above, I think that by September 2023, when these payments took place, Revolut should have had systems in place to identify, as far as possible, the actual scam that might be taking place and to provide tailored, effective warnings relevant to that scam for both transfers and card payments. I understand in relation to Faster Payments it already had systems in place that enabled it to provide warnings in a manner that is very similar to the process I've described.

I accept that any such system relies on the accuracy of any information provided by the customer and cannot reasonably cover off every circumstance. But I consider that by September 2023, on identifying a heightened scam risk, a firm such as Revolut should have taken reasonable steps to attempt to identify the specific scam risk – for example by seeking further information about the nature of the payment to enable it to provide tailored warnings.

In this case, Revolut knew the payment was being made to a cryptocurrency provider and its systems ought to have factored that information into the warning it gave. Revolut should also have been mindful that cryptocurrency scams have become increasingly varied over the past few years. Fraudsters have increasingly turned to cryptocurrency as their preferred way of receiving victim's money across a range of different scam types, including 'romance', impersonation and investment scams.

Taking that into account, I am satisfied that, by September 2023, Revolut ought to have attempted to narrow down the potential risk further. I'm satisfied that when Mrs B made her fourth payment, Revolut should – for example by asking a series of automated questions designed to narrow down the type of cryptocurrency related scam risk associated with the payment she was making – have provided a scam warning tailored to the likely cryptocurrency related scam she was at risk from. And in this case, Mrs B was falling victim to a cryptocurrency investment scam.

As such, I'd have expected Revolut to have asked a series of simple questions in order to establish that this was the risk the payment presented. Once that risk had been established, it should have provided a warning which was tailored to that risk and the answers Mrs B gave. I'd expect any such warning to have covered off key features of a cryptocurrency investment scam, such as warning her about unexpected contact through social media; a broker who isn't regulated; being promised high returns; paying to withdraw funds and being asked to move money between accounts to buy cryptocurrency. I acknowledge that any such warning relies on the customer answering questions honestly and openly, but I've seen nothing to indicate that Mrs B wouldn't have done so here.

As I've set out, I accept that under the relevant card scheme rules Revolut cannot delay a card payment, but in the circumstances of this case, I think it is fair and reasonable to conclude that Revolut ought to have initially declined the £2,600 payment in order to make further enquiries and with a view to providing a specific scam warning of the type I've described. Only after that scam warning had been given, if Mrs B attempted the payment again, should Revolut have made the payment.

And as I've set out above it did have systems in place by September 2023 to decline card payments and provide warnings of a similar nature to the type I've described. So, it could give such a warning and, as a matter of fact, was providing such warnings at the relevant time.

If Revolut had provided a warning of the type described, would that have prevented the losses Mrs B suffered from the £2,600 payment?

I'm persuaded that had Revolut presented Mrs B with a warning tailored to cryptocurrency investment scams and presented her with the hallmarks set out above, that she wouldn't have proceeded with any further payments.

I say this because Mrs B already had some concerns and doubts about the investment by the time she was making this payment. She'd questioned having to pay fees to access her funds and the scammer had reassured her that she wouldn't have to. However, she was then asked to pay further amounts, which she did on reassurance there would be no further fees. But then, at the time of this payment, she'd been asked to upgrade her account in

order to access her funds. So the scammer had broken promises again.

Overall, I think that a warning provided by Revolut would have given the perspective Mrs B needed, reinforcing her own developing concerns and she would more likely than not have concluded that the investment wasn't genuine. In those circumstances I think, she's likely to have decided not to go ahead with the £2,600 or any further payments.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Mrs B purchased cryptocurrency which credited her account with a cryptocurrency merchant, rather than making a payment directly to the fraudsters. So, she remained in control of the money after she made the payments from her Revolut account, and it 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 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.

Revolut has also addressed an Administrative Court judgment, which was referred to in a decision on a separate complaint. As I have not referred to or relied on that judgment in reaching my conclusion in relation to the losses for which I consider it fair and reasonable to hold Revolut responsible, I do not intend to comment on it. I note that Revolut says that it has not asked me to analyse how damages would be apportioned in a hypothetical civil action but, rather, it is asking me to consider all of the facts of the case before me when considering what is fair and reasonable, including the role of all the other financial institutions involved.

In reaching my decision, I have taken into account that the payments were made to a cryptocurrency merchant and that the payments that funded the scam were made from another account at a regulated financial business. But as I've set out in some detail above, I think that Revolut still should have recognised that Mrs B might have been at risk of financial harm from fraud when she made the fourth 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 Mrs B has 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 Mrs B's own account does not alter that fact and I think Revolut can fairly be held responsible for her 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.

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 Mrs B's loss from the £2,600 payment (subject to a deduction for Mrs B's own contribution which I will consider below).

Should Mrs B bear any responsibility for her losses?

Our Investigator set out why she considered Mrs B should also share liability for her losses and Mrs B accepted the Investigator's assessment. But for completeness I will also address this here and why I agree with this deduction.

Mrs B was contacted out of the blue by the scammer and she didn't have any personal relationship with her. It's clear Mrs B rightly had concerns about trusting a stranger, but she was then satisfied that someone who shared her faith and beliefs wouldn't mislead her. But as this was a stranger to Mrs B, I don't think she should've been satisfied by this.

The scammer also repeatedly told Mrs B that she wouldn't need to pay additional funds and then she was required to pay these. And I can see Mrs B had doubts about the investment but then carried on going, when these doubts shouldn't really have been satisfied by what she was being told. Mrs B was also guaranteed profits by the scammer, which should've been concerning if she'd researched investing, particularly in cryptocurrency. So I'm satisfied a deduction is fair and liability should be shared between Mrs B and Revolut here.

Putting things right

I direct Revolut Ltd to:

- Refund Mrs B the payments she made due to this scam from the £2,600 payment on 19 September 2023 onwards, minus 50% for her contributory negligence
- Pay 8% simple interest per annum on the refunded amounts from the date of each payment until the date of settlement

My final decision

For the reasons set out above, I uphold in part this complaint and require Revolut Ltd to pay Mrs B the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 23 April 2025.

Amy Osborne
Ombudsman