

The complaint

Mr C complains that Revolut Ltd won't refund payments he made as a result of a scam.

What happened

Mr C was the victim of an investment scam, involving the following payments from his Revolut account:

Payment number	Date	Description	Amount
1	17 August 2022	Card Payment to 'Cro'	£9,996.98
2	29 August 2022	Card Payment to 'Cro'	£9,720.20
3	31 August 2022	Card Payment to 'Cro'	£2,435.82

In summary, Mr C explained that he saw an advert on social media for an investment company that I'll refer to as H. He decided to open an account with a payment for around £200 using a credit card with another firm.

Mr C explained how he was subsequently given a trading account adviser, who told him to take out a loan, so he could invest more to make larger returns. Mr C did this and transferred the proceeds of the loan from his current account with Halifax to his newly opened Revolut account.

Halifax didn't let the payment go through at first, and it asked to speak with him. In summary:

- When asked about the payment, Mr C told the agent he'd set up a new account to transfer money across – to use as a back-up in case anything happens with Halifax. The agent noted the money that had come in. Mr C said it was the proceeds of a loan and when asked, he said it was for home improvements. The agent suggested he would be taking the loan proceeds and putting it in Revolut to keep it safe, which Mr C agreed with. After being placed on hold, they discussed the work he would do to his home – Mr C said he would redo the garden, redecorate and maybe do a loft conversion. He went on to detail issues he's had with his home.
- The agent asked whether he'd been asked by anyone not to tell the bank why he was making the payment – he said no. The agents went on to provide some context for the questions – that he was checking the reasons made sense and that it was of his own back. He explained that if it was inaccurate, he couldn't get the money back if it was a scam.

With the blocks lifted, Mr C made the transfer to his Revolut account. From there, his funds were deposited on a legitimate cryptocurrency exchange where they were exchanged and sent to another cryptocurrency wallet. Mr C was led to believe this would deposit funds on H's platform to invest. In fact, H's platform and the investment was fake, and the cryptocurrency went into fraudsters' hands.

When Mr C later wanted to withdraw what he earned, H said he'd need to pay fees. To pay

these, the advisor encouraged him to take out a further loan, which he did and transferred to H in the same manner as before. But Mr C was still unable to withdraw, as H demanded further fees, which Mr C ultimately paid from his savings.

Following this, H asked yet again for further fees. Because Mr C didn't have this, he asked a friend to lend him money. Having explained the circumstances, the friend said it sounded like a scam.

Mr C subsequently disputed the payments with Revolut. It declined to refund him and his subsequent complaint. It explained that he authorised money orders, so it didn't have grounds to raise chargeback claims, and under its terms and conditions, it wasn't liable to refund them.

Unhappy with its response, Mr C brought his complaint to our service to investigate. I issued provisional findings which upheld his complaint in part. Mr C accepted what I said, and Revolut didn't reply by the deadline given.

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.

Given that neither side has added anything to disagree with my provisional findings, I see no reason to depart from what I said before. For completeness, I've explained my reasons again below.

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.

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 August 2022 have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances.

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

- using algorithms to identify transactions presenting an increased risk of fraud;¹
- requiring consumers to provide additional information about the purpose of transactions during the payment authorisation process;
- using the confirmation of payee system for authorised push payments;
- providing increasingly tailored and specific automated warnings, or in some circumstances human intervention, when an increased risk of fraud is identified.

I am also mindful that:

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

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.

- 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 Code³, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code (and Revolut was not a signatory), but the standards and expectations it referred to represented a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now (regardless of the fact the BSI was withdrawn in 2022).
- Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer’s control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a cryptocurrency wallet held in the consumer’s own name. And, increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet.
- The main card networks, Visa and Mastercard, don’t allow for a delay between receipt of a payment instruction and its acceptance: the card issuer has to choose straight away whether to accept or refuse the payment. They also place certain restrictions on their card issuers’ right to decline payment instructions. The essential effect of these restrictions is to prevent indiscriminate refusal of whole classes of transaction, such as by location. The network rules did not, however, prevent card issuers from declining particular payment instructions from a customer, based on a perceived risk of fraud that arose from that customer’s pattern of usage. So it was open to Revolut to decline card payments where it suspected fraud.

Overall, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in August 2022 that Revolut should:

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

- 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 August 2022, Revolut should in any event have taken these steps.

Should Revolut have recognised that consumer was at risk of financial harm from fraud? If so, what kind of warning should it have provided?

While I've set out the circumstances of the scam, I'm mindful that Revolut wasn't privy to this detail when Mr C made the payments – it had much less information to decide whether he was at risk of falling victim to a scam.

I've also considered how Mr C opened his account for the purposes of the payments – so it didn't have payments to compare these to. And how he told Revolut when he opened the account that he would use it for trading – which tallied up with the nature of these payments.

However, I'm also mindful that the first payment was a significant card payment. It was for just under £10,000 – a considerable amount that was seemingly designed to avoid detection.

With this in mind, I think Revolut ought to have recognised that this payment represented an increased risk of financial harm from fraud, and it should have provided a warning that was proportionate to that – but I've not seen that any warnings were given in relation to these payments.

Given the other factors I've described, I wouldn't have expected a conversation to have been required for the first payment. Instead, I'm satisfied that Revolut ought to – in line with what I think is fair and represented good industry practice – have asked about the purpose of the payment (for example by asking Mr C to select a payment reason from a list of possible reasons) and provided a warning which covered the key scam features of the payment purpose selected.

While I think that would have been proportionate to the risk of payment 1, I find that by payment 2, the risk of financial harm had increased again. Mr C was making another considerable payment to the same payee. This took his spending on the newly opened account to just under £20,000 in two transactions in under two weeks, something I think ought to have stood out as unusual.

It follows that I'd reasonably expect Revolut to have gone further in its warnings for payment 2. I think a proportionate response to that risk would be for Revolut to have attempted to establish the circumstances surrounding the payment before allowing it to debit Mr C's account. I think it should have done this by, for example, directing Mr C to its in-app chat to discuss the payment further.

If Revolut had provided warnings of the types described, would that have prevented the losses Mr C suffered?

I can't say for certain how Mr C would've reacted to the warnings I think Revolut ought fairly to have provided. But civil disputes like these are only ever decided on the balance of probabilities – in other words, what is more likely than not to have happened. Here, I've considered the following:

- The messages I've seen, and the actions Mr C took, show his willingness to do as H asked. Indeed, it's likely Mr C was told by H what to say to get the loan, and the conversation with Halifax shows how Mr C was prepared to mislead his bank.
- But I don't think that means Mr C was oblivious to warnings that were relevant to his circumstances. Indeed, when he told a friend what happened, he was receptive to their warning he'd been scammed – and he seemingly didn't send further payments from that point.
- I'm also mindful that Mr C's story to Halifax didn't fully add up – and he wasn't pressed on the inconsistencies. He said it was a new account as a back-up, and later, when the agent suggested, that he was keeping aside proceeds from a loan that would be used for significant home improvements (that likely would've far exceeded the value of the loan).
- I've noted this was a lot of money for Mr C to lose – and money that was not his own, as he'd used loans. So I think Mr C would've been worried if there were signs this wasn't a guaranteed win for him, as H duped him into believing.
- I've also kept in mind that Revolut would've been aware of how scammers coach their victims. That means they ought to scrutinise answers and provide context to their questions – so people can understand the risks for themselves even if they're not forthcoming.

Taking this all into account, I think it's likely that, had Revolut asked him about the purpose of payment 1, as I've set out it ought to have done, Mr C would've likely selected something other than the true purpose of the payment, under H's instructions. I think that's in keeping with the evidence I've seen of how he misled his loan provider and bank. It follows that I don't think he'd have seen a warning from Revolut that was relevant to his circumstances. So I'm not satisfied it would've made a difference to Mr C's decision to go ahead with the first payment.

However, for payment 2, I've set out that Revolut ought reasonably to have gone further in its intervention. And I'm mindful that it could have seen the likelihood from the payment details that this was going to a cryptocurrency platform. It follows that I'd have expected its intervention to highlight, in clear and understandable terms, what the key features of investment scams are and to ask open and probing questions that would allow both it and Mr C to establish the risk of a scam. Crucially, this means not only asking questions, but providing relevant context.

Taking into account what I've set out above, I think it's likely this would've unravelled the scam. I've reflected on how, even if Mr C set out to mislead Revolut, I'm not convinced it would've stood up to reasonably scrutiny given his previous interaction with Halifax. Moreover, Revolut's context around investment scams could've allowed Mr C to see for himself that his circumstances had many of the hallmarks of common investment scams – most glaringly, that he was being asked to pay significant amounts upfront to withdraw his investment. And given that this wasn't his money to lose, I think he would have taken heed of these signs, as he did with his friend's advice.

In conclusion, while I don't think Mr C would've been put off the first payment, I'm persuaded that, had Revolut carried out an appropriate intervention with the second payment, it's more likely than not that the scam would have been exposed and Mr C wouldn't have lost more money.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Mr C purchased cryptocurrency which credited an e-wallet held in his own name, rather than making a payment directly to the fraudsters. So, he remained in control of his money after he made the payments from his 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 (in this case and others) merely an intermediate link – being neither the origin of the funds nor the point of loss and it is therefore irrational to hold it responsible for any loss.

In reaching my decision, I have considered that the payments were made to another financial business (a cryptocurrency exchange) 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 Mr C might have been at risk of financial harm from fraud when they made payment 2, 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 he 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 consumer's own account does not alter that fact and I think Revolut can fairly be held responsible for consumer's loss in such circumstances. I don't think there is any point of law or principle that says that a complaint should only be considered against either the firm that is the origin of the funds or the point of loss.

I've also considered that 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 consumer could instead, or in addition, have sought to complain against those firms. But he 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 his compensation in circumstances where: Mr C has only complained about one respondent from which he is entitled to recover his 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 losses from payment 2 (subject to a deduction for his own contribution which I will consider below).

Should Mr C bear any responsibility for his losses?

I've considered whether Mr C should bear any responsibility for his losses. In saying this, I don't wish to blame him for being the victim of a scam. But in assessing whether Revolut acted fairly, I must also consider whether his actions fell below what I'd expect of a reasonable person.

Here, I can see how Mr C was enticed by the opportunity, particularly as it was seemingly promoted by celebrities. And I've noted how there wasn't seemingly a lot about H available online at the time that could've cast doubts in Mr C's mind. I've also considered how he would've been taken in by the sophistication of the scam – he'd his own 'trader' and there was a fake platform where he could see his profits grow.

However, I've noted Mr C's own shock at how quickly his profits grew – and I think there was a question over whether these were too good to be true. I've also reflected on how H instructed Mr C to take out loans to fund the investment and the supposed fees, and in doing so, how he was persuaded to conceal the true purpose of what he was doing. Again, I think this ought to have caused Mr C to think twice about H's legitimacy. Finally, I'm mindful that by payment 2, Mr C was being asked to pay fees upfront that almost equalled his original investment – a matter that I'd have expected him to have been more suspicious of.

Taking this all into account, while I recognise how Mr C was enticed by this sophisticated scam, I think there were some dubious and suspicious signs that I think he ought reasonably to have acted on. It follows that I've reduced the award by 50% for his contributory negligence.

My final decision

For the reasons I've explained, I uphold this complaint in part. Revolut Ltd must pay Mr C:

- 50% of the total of payments 2 and 3, less any amounts recovered or already refunded.
- 8% simple interest per year on this amount, from the date of the payments to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 April 2025.

Emma Szkolar
Ombudsman