

The complaint

Miss L complains that Revolut Ltd won't refund several payments she says he made and lost to a scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary and based on the submissions of both parties, I understand it to be as follows.

Miss L complains that from 01 June 2023 she sent seven payments to what she thought was a legitimate job.

Payment 1	01 June 2023	£1,992.36
Payment 2	01 June 2023	£2,630
Payment 3	06 June 2023	£8,000
Payment 4	06 June 2023	£995
Payment 5	10 June 2023	£8,000
Payment 6	10 June 2023	£1,280
Payment 7	10 June 2023	£200
		£23,097.36

Miss L says she received a message on a third-party messaging service promoting work.

Miss L says she was asked to send payments to complete tasks but after asking to withdraw her profits and then being asked to send more money, realised she'd been scammed. So, Miss L logged a complaint with Revolut.

Revolut looked into the complaint but didn't think it had done anything wrong by allowing the payments to go through. So, Miss L brought her complaint to our service.

Our investigator looked into the complaint and thought it should be upheld. Our investigator found that Revolut should have intervened on the payment of £2,630 (payment 2) and given Miss L a written warning relevant to cryptocurrency scams. Our investigator went on to say that as Miss L was falling victim to a task-based job scam, she wasn't convinced it would've prevented Miss L from sending more payments or unearthed the scam.

Our investigator did find Revolut should've intervened again though on payment 3. In this situation she thought a proportionate intervention should've been human interaction and found if Revolut had asked questions about the payments, the scam would've likely been exposed.

Revolut didn't agree with the investigator's outcome, so the complaint has been passed to

me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that an Electronic Money Institution ("EMI") such as Revolut is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

And, as the Supreme Court has recently reiterated in *Philipp v Barclays Bank UK PLC*, subject to some limited exceptions banks have a contractual duty to make payments in compliance with the customer's instructions.

In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks to their customers when making payments. Among other things, it said, in summary:

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, it must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.
- At paragraph 114 of the judgment the court noted that express terms of the current account contract may modify or alter that position. In *Philipp*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a legal duty to do so.

In this case, the terms of Revolut's contract with Miss L 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 June 2023 have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances.

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

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

For example, it is my understanding that in June 2023, Revolut, whereby if it identified a scam risk associated with a card payment through its automated systems, could (and sometimes did) initially decline to make that payment, in order to ask some additional questions (for example through its in-app chat).

I am also mindful that:

- Electronic Money Institutions like Revolut are required to conduct their business with "due skill, care and diligence" (FCA Principle for Businesses 2), "integrity" (FCA Principle for Businesses 1) and a firm "must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems" (FCA Principle for Businesses 3)².
- Over the years, the FCA, and its predecessor the FSA, have published a series of publications setting out non-exhaustive examples of good and poor practice found when reviewing measures taken by firms to counter financial crime, including various iterations of the *"Financial crime: a guide for firms."*
- Regulated firms are required to comply with legal and regulatory anti-money laundering and countering the financing of terrorism requirements. Those requirements include maintaining proportionate and risk-sensitive policies and procedures to identify, assess and manage money laundering risk – for example

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.

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, 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 June 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.

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

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

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

It isn't in dispute that Miss L has fallen victim to a cruel scam here, nor that she authorised the payments she made by transfers to her cryptocurrency wallet (from where that cryptocurrency was subsequently transferred to the scammer).

Whilst I have set out in detail in this decision the circumstances which led Miss L to make the payments using her Revolut account and the process by which that money ultimately fell into the hands of the fraudster, I am mindful that, at that time, Revolut had much less information available to it upon which to discern whether any of the payments presented an increased risk that Miss L might be the victim of a scam.

By June 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 (6). And by June 2023, when these payments took place, further restrictions were in place (7). 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 Miss L made in June 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 June 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, 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 most of the payments in this case were going to an account held in Miss L's own name should have led Revolut to believe there wasn't a risk of fraud.

So, I've gone on to consider, taking into account what Revolut knew about the payments, at what point, if any, it ought to have identified that Miss L might be at a heightened risk of fraud that merited its intervention.

I think Revolut should have identified that payment 1 was going to a cryptocurrency provider (the merchant is a well-known cryptocurrency provider), but it was low in value, and I don't think Revolut should reasonably have suspected that it might be part of a scam.

Payment 2 was clearly going to a cryptocurrency provider. It was larger than any other payments that had debited Miss L account. Given what Revolut knew about the destination of the payment, I think that the circumstances should have led Revolut to consider that Miss L was at heightened risk of financial harm from fraud when she made the second payment, and it took the total to £4,622.36 in one day. In line with good industry practice and regulatory requirements, I am satisfied that it is fair and reasonable to conclude that Revolut should have warned its customer before this payment went ahead.

By the time Miss L made the third payment around a week later of £8,000 it took the total amount she had sent to the scammer to £12,622.36. I'm satisfied at this point that a further warning was reasonable given the size of the payment and the total amount sent.

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

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

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

What did Revolut do to warn Miss L? What kind of warning should Revolut have provided?

Revolut says it didn't give Miss L any warnings.

I'm satisfied that a proportionate intervention when Miss L made payment 2 would've have been a tailored warning relevant to cryptocurrency investments.

Having considered the impact, I think the warning would've likely had, I'm not convinced it would've uncovered the scam. I say this as the warning would've explained all the characteristics of a cryptocurrency scam, and Miss L was part way through being the victim of a job scam. The key features of common crypto investment scams that I would've expected on the warning are an advertisement on social media, promoted by a celebrity or public figure; an 'account manager', 'broker' or 'trader' acting on their behalf; the use of remote access software and a small initial deposit which quickly increases in value. So, I don't think any of these would've resonated with Miss L.

Having said that, I do think a further warning was warranted by the time Miss L made her next payment of £8,000. By this point Miss L had sent over £12,000 to cryptocurrency provider's and the payments were also increasing - which is typical of a scam. At this stage I'm satisfied a proportionate intervention would've been human interaction and taking Miss L into the chat function.

If Revolut had provided a warning of the type described, would that have prevented the losses Miss L suffered from payment 3?

Had Revolut spoken to Miss L, I find it more likely than not that the scam would've been exposed. I say this as I'm not aware of Miss L having a cover story or being coached by the scammer. Miss L was also making large payments to what she thought was a task-based job, and once she described this to a Revolut advisor, I'm satisfied they would've been on notice that Miss L was falling for a scam and could've broken any spell Miss L may have been under. The investigator has correctly pointed out that the scammer had told Miss L to lie if she had been questioned about the purpose of the payments, but her cover story was limited to paying a friend. Given these payments were identifiably going to a crypto provider, I'm satisfied that good intervention questions ought to have uncovered the scam. We also have no evidence Miss L did chose to follow the scammers instructions and mislead anyone, as there was no intervention from any of the firms involved in the payments.

Miss L also spoke to Revolut on 04 June 2023, before she sent payment 3 and explained why she was sending payments. It's clear from her description of what she was doing, that she was involved in a job scam - Revolut failed to pick up on this though.

In reaching my decision about what is fair and reasonable, I have taken into account that Revolut was the middle firm, and money was being sent from an account Miss L had elsewhere.

I've also considered that Miss L 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 L could instead, or in addition, have sought to complain against those firms. But Miss L has not chosen to do that and ultimately, I cannot compel them to. In those circumstances, I can only make an award against Revolut.

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

In reaching my decision about what is fair and reasonable, I have taken into account that Revolut were the middle firm in these transactions.

But as I've set out in some detail above, I think that Revolut still should have recognised that Miss L might have been at risk of financial harm from fraud when they made payment 3, 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 L suffered. The fact that the money used to fund the scam came from elsewhere and/or wasn't lost at the point it was transferred to Miss L's own account does not alter that fact and I think Revolut can fairly be held responsible for Miss L'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 L 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 L could instead, or in addition, have sought to complain against those firms. But Miss L has not chosen to do that and ultimately, I cannot compel her to. In those circumstances, I can only make an award against Revolut.

I'm also not persuaded it would be fair to reduce Miss L's compensation in circumstances where: Miss L 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 L's loss from Payment 3 (subject to a deduction for Miss L's own contribution which I will consider below).

Should Miss L bear any responsibility for their losses?

I've thought about whether Miss L should bear any responsibility for her loss connected to the payments. In doing so, I've considered what the law says about contributory negligence, as well as what I consider to be fair and reasonable in all of the circumstances of this complaint including taking into account Miss L's own actions and responsibility for the losses she has suffered.

Here I'm satisfied that the responsibility for the loss should be shared. I'll explain why.

- Miss L didn't receive official documentation such as a contract showing her salary or working hours. I don't think the circumstances of how the job was obtained minimises the need for such documents and I think this should have been suspicious in appearance to her.
- The contact was unsolicited, and Miss L wasn't actively looking for work. Miss L doesn't appear to have questioned where or why her details had been obtained.
- Miss L was being asked to send substantial amounts of money to earn money. This is unusual and she didn't question this.
- The returns seemed too good to be true. Miss L was told she would only have to work a small number of hours per day.
- Miss L was being asked to pay using cryptocurrency. It is unusual to be asked to pay in this currency and Miss L didn't question this.
- The tasks got more expensive each time Miss L completed the last. This made it seem impossible to complete. Miss L also didn't manage to make any withdrawals.

So, given the above, I think Miss L ought reasonably to have realised that there was a possibility that the scheme wasn't genuine before she made the payments. In those circumstances, I think it fair that she should bear some responsibility for her losses.

Recovery

Miss L paid a legitimate crypto exchange, and she would have received a service from the crypto exchange which would have involved changing her payments into crypto before sending it to the wallet address she supplied it with (albeit the wallet address was provided by the scammer). Miss L's disagreement is with the scammer, not the crypto exchange.

And so, it would not have been possible for Revolut to process a chargeback claim against the scammer as Miss L did not pay them directly. Revolut could only have processed chargeback claims against the recipient of her payments – the crypto exchange. I do not think Miss L had any reasonable prospect of success if Revolut were to have processed chargeback claims against the crypto exchange. So, I can't say that Revolut acted unfairly.

Putting things right

For the reasons given above, I uphold in part this complaint and require Revolut Ltd to pay Miss L:

- Refund 50% of the money lost from and including payment 3 of £8,000 on 06 June 2023.
- As Miss L borrowed the full amount of funds lost, I'm satisfied 8% isn't to be added to the refund.

My final decision

My final decision is that I uphold this complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 1 July 2025.

Tom Wagstaff
Ombudsman