

The complaint

Miss D complains about Revolut Ltd's actions in relation to a scam in which she lost over £4,000.

What happened

The background to this case is well known to both parties, so I'll just summarise it here.

In January 2020¹, Miss D received an automated call directing her to press "1" to accept a call from the police, or else face arrest. She was put through to someone who identified themselves as a police officer, and provided their badge number. They also knew her name and address. Unfortunately, they were a scammer.

The scammer said they were calling Miss D as her tax was overdue. She'd started her tax return the previous day, but hadn't finished it. She said she thought she had more time, but the scammer told her she didn't. They sent her a notice, allegedly from the "Royal Courts of Justice" saying that criminal action was being taken against her and there was a warrant for her arrest due to non-payment. And that is who the phone number appeared to relate to – it had been "spoofed" to appear legitimate.

Miss D says that, as a foreign national, she wasn't very familiar with the UK tax system. She thought she must have done something wrong, and that she'd be arrested and convicted if she didn't make payment as instructed. Within half an hour, she made five transfers totalling £4,339 to three accounts. This left only £15.05 in her Revolut account. The scammer tried to pressure her into transferring more, prompting her to reach out to a friend to ask for money. He queried whether it could be a scam. She still thought it was a legitimate, but her friend was able to show her where the money was going and help her understand why it might be a scam. She ended the call and tried to cancel the payments – but they'd already gone through. She reported the scam to Revolut and the police.

Revolut tried unsuccessfully to recall the payments. It said it wouldn't refund Miss D's loss as she'd authorised the payments despite the warnings it had sent her that the transactions were highly suspicious.

Unhappy with Revolut's response, Miss D referred the matter to our service. Our investigator thought Revolut should refund her loss, with interest, and pay £150 compensation. Given that it identified the payments as suspicious, he didn't think it had intervened appropriately. Had it done so, he thought this would likely have prevented the loss.

Revolut doesn't agree. It says it's common knowledge that HMRC doesn't call people. It also argues that, had it intervened further, Miss D would still have made the payments out of fear. Our investigator has reiterated that he doesn't think Miss D is partly to blame for what happened – and *does* think further intervention would have made a difference. As no agreement has been reached, the case has been passed to me.

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.

Having done so, I've reached the same conclusions as the investigator. I'll explain why.

I accept the transactions were authorised payments, even though Miss D was the victim of a sophisticated scam. She used her security credentials to request the payments. So, although she didn't intend the money to go to the scammers, under the Payment Services Regulations 2017 and the terms and conditions of her account, Miss D is presumed liable for the loss in the first instance.

However, taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Revolut should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and 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 banks 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, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

My understanding is that Revolut identified the first transfer (and some others) as suspicious. I consider that reasonable. I say this because this was a series of relatively large payments, utilising over 99% of Miss D's funds, made in quick succession to several new payees. These are common indicators of fraud or scams. So what I've gone on to consider is whether Revolut did enough in response to the risk it identified.

Did Revolut respond appropriately to the risk of financial harm from fraud that it identified?

Revolut has explained that it blocked the first payment (and some of the subsequent payments) and displayed a message which said:

"Review transfer

Our systems have identified your transaction as highly suspicious. We declined it to protect you.

If you decide to make the payment again anyway, you can, and we won't decline it.

As we have warned you this payment is highly suspicious and to not make the payment, if the person you pay turns out to be a fraudster, you may lose all your money and never get it back.

You can learn more about how to assess this payment and protect yourself from this link: <https://takefive-stopfraud.org.uk/>

Miss D says she doesn't recall this, but she would have needed to click "OK" to proceed to make the payments. Once she'd done that, no further payments to that particular payee were blocked.

Revolut considers this response sufficient in the circumstances. But as a matter of good industry practice, I think it ought fairly and reasonably to have done more. While I appreciate that banks are generally expected follow payment instructions, that isn't an unfettered duty. Reasonable checks and balances are also required as part of the broad regulatory landscape to treat customers fairly and to safeguard against the risk of fraud or financial harm. I accept there's a limit to what a bank can reasonably do; and I still expect consumers to take responsibility for their own decisions – and possibly bear some of the loss if there is clear evidence of blame on their own part (see below). But in this case, I'm conscious that Revolut had already disrupted the payment journey by blocking the payment. And I'm not persuaded that the subsequent action it took was enough to meet its obligations to protect its customer from financial harm from fraud.

I appreciate that Revolut warned Miss D that it considered the transactions to be "highly suspicious". But an important feature of the type of scam Miss D fell victim to is that the consumer is induced to make the payments themselves, and that they're unaware of the scam. That affects the impact of a warning like the one Revolut used. It didn't give any further information about why the payments appeared suspicious – or any information about the type of scam Miss D was at risk from (or really any scams). And Revolut allowed her to re-make each blocked transaction immediately afterwards, whilst she was still under the influence of the scammers coaching her through the process, without knowing anything more about the purpose of the payments or the circumstances surrounding them.

In the circumstances, I think Revolut should have done more. For example, after blocking the payments, it would have been more appropriate to contact Miss D, or require her to get in touch, so it could make further enquiries before deciding how to proceed.

Would appropriate intervention have affected Miss D's loss?

It doesn't appear that Miss D was given a cover story for these payments. So if asked by Revolut, I think she would have explained that she'd been called by the police and told to make immediate tax payments, and that she'd be arrested if she didn't. I would then have expected Revolut, which would have more awareness of common scams than Miss D, to have realised this was a scam. As the financial professional in this situation, I consider it likely that, if it had explained its concerns to Miss D, this would have "broken the spell" – as happened when her friend set out to her why it didn't seem legitimate. So, if Revolut had responded appropriately to the risk it identified from the first transfer, I think that would likely have revealed the scam and prevented the loss. I therefore think it should refund the transactions and pay interest for the loss of use of those funds.

Should Miss D hold some responsibility for her loss?

I've considered whether Miss D should hold some responsibility for her loss by way of contributory negligence. I think the unfortunate timing of her having started her tax return the previous day made it seem more likely that HMRC would be contacting her. I'm also conscious that, as a foreign national, Miss D wasn't as familiar and confident about HMRC's process. I think a reasonable person, in the circumstance of facing the threat of legal action for unpaid tax, in a foreign country, might be similarly persuaded that the call was legitimate. Particularly bearing in mind the social engineering and pressure tactics (such as the threat of arrest) used in the call to make it more difficult for her to identify and reflect on any warning signs. Whilst she mentioned feeling "suspicious" towards the end, my understanding from her contact with us is that she felt pressured – but was still under the spell of the scam and persuaded it was legitimate due to the tactics used by the scammers. Her chat with Revolut immediately afterwards also mentions that she was suspicious due to being asked to get more money from a friend – and no further payments were made from that point.

For the reasons I've set out above, I also don't think the warning – with no details about why the payments were suspicious or about the scam – would have reasonably alerted Miss D to the risk. Considering her circumstances and the tactics of the scammers, I consider it reasonable that she was still persuaded that the payments were legitimate. In all the circumstances, I don't think there was contributory negligence here. Miss D was simply a victim of a sophisticated scam, which her circumstances made her vulnerable to, and wasn't partly to blame for what happened.

Distress and inconvenience

As well as the financial loss Revolut failed to prevent, I think its handling of her fraud claim caused her avoidable distress and inconvenience. I'm mindful it was the scammers, rather than Revolut, who put Miss D in this difficult and upsetting position in the first place. That said, I've found that Revolut could have done more to prevent the scam from going ahead – which would have reduced the stress and financial pressure on Miss D. I can also see she found it difficult to deal with Revolut during the fraud claim. She efficiently compiled all the relevant information she was asked for, and was kept waiting for responses. It's clear from her contact with Revolut that this was difficult and upsetting for her. So, in the circumstances, I consider it fair and reasonable that Revolut should pay Miss D £150 compensation for the distress and inconvenience it caused.

My final decision

For the reasons given above, I uphold this complaint and direct Revolut Ltd to:

- Refund the £4,339 Miss D transferred to the scammers, less any funds recovered;
- Pay 8% simple interest on this amount from the date the payments left the account to the date of settlement; and
- Pay £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 14 October 2021.

Rachel Loughlin
Ombudsman