

The complaint

Miss T complains that Revolut Ltd hasn't refunded her the money she lost after she fell victim to an Authorised Push Payment ('APP') scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything here.

In brief, Miss T has explained that in February 2023 scammers persuaded her that her bank account was compromised, and they tricked her into making payments from an account she held with another banking provider to her Revolut account, and from her Revolut account to accounts that were controlled by the fraudsters.

The relevant payments from Miss T's Revolut account were as follows:

25 February 2023	£4.71
25 February 2023	£6,706.00

Miss T raised the matter with Revolut and it issued its final response in March 2023 not upholding her complaint. In summary it said this was because it had provided warnings and that Miss T had been negligent. Revolut also tried to recover the money lost from the beneficiary account (the account to which the payments were made), but the beneficiary bank told it that only £10.71 of the money was recoverable.

Unhappy with Revolut's response Miss T brought her complaint to this service. One of our Investigator's looked into things and thought the complaint should be upheld in part. In summary, it was her view that, while she recognised the payment was made as a result of fraud, she didn't think Revolut should reasonably have been expected to prevent payment one (for £4.71). She said this as she didn't think it would have appeared to be so unusual or out of character to Revolut that it could have identified the payment was being made in relation to a scam.

But although our Investigator acknowledged that Revolut had gone some way in attempting to warn Miss T, when she made her second payment for £6,706, she didn't think it had gone far enough. In summary, she thought Revolut should have made further enquiries with Miss T before allowing the payment to be progressed and, if it had done so, she thought the scam would have been uncovered.

Our Investigator recommended that Revolut refund the second payment to Miss T, along with interest. Our Investigator also liaised with Revolut about the service it had provided Miss T, following which it offered to pay £100 for the distress and inconvenience for the length of time it took them to log the scam and for the support it gave Miss T. Our Investigator thought this offer of £100 was fair.

Miss T agreed with our Investigator's view, but Revolut disagreed. In summary, it maintained that it had provided Miss T with warnings at the time she made the payment. It added that

she was explicitly told that Revolut would never call her and she ignored that information. It didn't think it would have made a difference if she was asked open ended questions and there was no guarantee that open ended questions would have uncovered the scam.

As agreement couldn't be reached the case has been passed to me for a final 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.

Having done so, I've decided to uphold Miss T's complaint in part, for broadly the same reasons as the Investigator.

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

It is the case that Miss T authorised the transfers in dispute and that's accepted by all parties. And under the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Miss T is responsible for them. That remains the case even though Miss T was the unfortunate victim of a scam.

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.

Taking the above into consideration, in this case, I need to decide whether Revolut acted fairly and reasonably in its dealings with Miss T when she made the two transfers to a new payee, or whether it should have done more than it did.

Did Revolut act fairly and reasonably in this case?

As I've explained, I consider that as a matter of good practice Revolut should have been on the lookout for unusual and out of character transactions.

I've first thought about whether I think Revolut should have intervened. Revolut has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud. When Miss T made the first transfer, of £4.71, to the scammer, there wasn't anything unusual or remarkable about the transfer or the amount, when compared to her typical account activity, that ought to have alerted Revolut to the possibility Miss T was being scammed. It was a low value transfer and Miss T had made previous transfers from her account. So I don't think it was unreasonable for it to have not flagged as potentially suspicious to Revolut.

But at the point Miss T made the second payment, just a couple of minutes later, for £6,706, it represented a significant departure from how she usually ran her account. I am mindful that a common theme to a scam - especially a safe account scam - is that a scammer tries to gain as much money from unsuspecting victims as is possible. So where there are multiple payments or transfers made in quick succession, it is a possible indication to a bank or building society that their customer could be at risk of financial harm.

There isn't really any disagreement about this point, as Revolut has confirmed the second payment was flagged and declined by its systems. With this in mind, I have to consider whether Revolut did enough once it suspected there was a high risk of fraud.

As I've said, I acknowledge Revolut has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud and for when it ought to intervene. And I accept that a bank does have a duty under the Payment Service Regulations not to delay payments or transfers unduly. But it is not an unfettered duty to execute - and reasonable checks 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'm mindful there is a limit as to what a Firm can reasonably do; and I still expect consumers to take responsibility for their own decisions. But when plain triggers of unusual or uncharacteristic account activity exist, it's not unreasonable to expect a Firm's fraud alerts to respond proportionately. While, in the individual circumstances of this case, it is finely balanced I don't think the warnings Revolut presented or its interventions went far enough and I'm persuaded it ought, fairly and reasonably, to have done more here.

Revolut did, at least in part, attempt to warn Miss T about the type of scam she was falling victim to. And Miss T responded to these warnings to confirm she was aware of the warning it had given and answered 'no' to a question about whether she had been called by any bank claiming that her account wasn't safe. However I'm not persuaded the warnings it provided were good enough to have resonated with Miss T, nor that this intervention was enough. I say that because the warnings were lengthy in nature and while some were specific to safe account scams, they also mentioned a number of other scam types and were at times asking Miss T several questions about different scam types all within the body of one message. I'm also mindful here that Miss T has said she was being coached by the fraudster to move passed these warnings, which she was able to do by simply giving yes or no answers as instructed by the fraudster.

However, in these circumstances, given the unusual nature of the payment, I'm persuaded Revolut should've asked open and probing questions, not closed questions where the answer was yes or no. Miss T had selected 'something else' as the reason for the payment. But from the evidence I've seen, at no point, did Revolut probe this further to ask what the

actual purpose of the payment was. I think, given the unusual nature of the payment, the red flags that were present and considering Revolut's security system had held the transaction, that it's fair and reasonable to say that Revolut ought to have explored this further.

I think that if Revolut had probed further it's more likely than not that the scam would've been uncovered. I say this because, particularly in the case of safe account scams, consumers are often told to lie which Revolut should've been alive to. Importantly here though the fraudster hadn't provided Miss T with a cover story. So while the fraudster was able to quickly coach Miss T to respond with one-word answers to the closed questions Revolut was asking. I don't think this would have been possible had Revolut had asked more probing and open questions.

It's quite possible that had Revolut asked Miss T what the actual purpose of the payment was she would have told it she was moving her money to keep it safe, in which case it would have been quite clear to Revolut that it was a scam. But even if I consider that she was being coached and that she could have reverted to the fraudster about how she should answer any further questions. I don't think she would have been able to respond to Revolut plausibly and promptly about the purpose of the payment, nor about any follow up questions Revolut could and ought to have asked.

I think it more likely than not there would have been a discernible delay with any answers when compared to how promptly Miss T had answered the previous closed questions, which I think would have just gone to compound the concerns that Revolut ought to have had. Alongside this if Miss T were to have referred to the fraudster about how to respond, it's likely the fraudster would have given her a cover story to tell – in which case, it would have begged the question to Miss T as to why, who she thought was her bank, was telling her not to give an honest answer.

Overall, while in the individual circumstances of this case it is finely balanced, I'm persuaded that it's more likely than not that more open and probing questioning by Revolut would have resulted in the scam coming to light and Miss T wouldn't have lost the money from this second payment.

Should Miss T bear some responsibility for the loss?

In reaching my conclusions about what is fair and reasonable in this case, I have also considered whether Miss T should bear some responsibility for her loss. Miss T has explained and provided evidence of the telephone number and calls she received which all appeared genuine (as a result of 'number spoofing'). Miss T says the fraudster she spoke to also knew details about her.

All things considered, Miss T was the victim of a cruel and sophisticated scam. I am satisfied she believed she was liaising with Revolut at the time and didn't foresee the risk of this sort of harm and was not partly to blame for what happened. So, on the particular facts of this individual case, I don't consider it fair to reduce compensation for some of the loss due to any blameworthy acts or omissions by Miss T.

Finally, Revolut has recognised the service it provided Miss T could have been better and in recognition of this agreed with our Investigator to offer Miss T £100. I think this is fair and reasonable in the circumstances.

Putting things right

For the reasons given above, I uphold, in part, Miss T's complaint against Revolut Ltd. I now direct Revolut Ltd to:

- Refund Miss T £6,706 being the money lost from the second payment (less any sums that have potentially being recovered subsequently and returned to Miss T).
- Pay additional interest on that amount at 8% simple interest. This should be calculated from the date Miss T made the transfer (the date of the loss) until the date of settlement. †
- Pay Miss T £100 for the distress and inconvenience caused.

† HM Revenue & Customs requires Revolut Ltd to take off tax from this interest. Revolut Ltd must give Miss T a certificate showing how much tax it's taken off if she asks for one.

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 T to accept or reject my decision before 10 November 2023.

Stephen Wise
Ombudsman