

The complaint

Mr P is unhappy that Revolut Ltd won't reimburse money he lost to a scam.

What happened

On 29 February 2024 I issued my provisional decision on this complaint. I wanted to give both parties a chance to provide any further evidence or arguments before I issued my final decision. That provisional decision forms part of this final decision and is copied below.

What happened

On 14 February 2023, Mr P came across an advert which described an interview with a well-known financial journalist and media personality on a popular daytime television show. It suggested he could make money from trading cryptocurrency. Mr P says that he called the number on the advert and spoke to someone (the scammer) claiming to represent an investment company – "K". Unfortunately, Mr P wasn't dealing with a legitimate investment company but fraudsters.

After agreeing to invest Mr P was given access to a trading platform where he could see his investment and the various trades that were being placed on his behalf. Mr P believed that he was investing in oil and gold.

In order to fund his trading account, Mr P was advised that he'd need to purchase cryptocurrency from a legitimate cryptocurrency provider – "B" and then send it to what he believed was his own trading account. The scammer used remote access software to show Mr P how to purchase cryptocurrency.

The payments Mr P made took the form of either card payments to B or Faster Payments to S (an FCA-authorized firm which, at the time, processed payments on behalf of B). Those payments were used to purchase cryptocurrency from B, which credited Mr P's own cryptocurrency wallet. From his cryptocurrency account at B, Mr P sent cryptocurrency to the fraudsters.

The first payment Mr P made to purchase cryptocurrency was a \$250 card payment made on 14 February 2023 using a card issued by another financial business. It is not therefore part of this complaint.

The first transaction that appears on Mr P's Revolut account statement is actually a credit from B. Two other credits would also take place during the period of the disputed transactions. Mr P says that these were successful, albeit modest, withdrawals from his trading account.

A table showing all of the payments made towards, and received from, the accounts at B and S in relation to the fraud is set out below.

<i>Date and time (where available)</i>	<i>Type of payment</i>	<i>Merchant</i>	<i>Amount</i>
--	------------------------	-----------------	---------------

Not Revolut			
14 February 2023	Card payment	B	£250
23 March 2023	Credit		£342
To/from Revolut			
17 February 2023	Credit	B	£40.26
21 February 2023, 12:27	Card payment	B	£1,050
21 February, 12:38	Card payment	B	£1,000
27 February 2023	Credit	B	£196.40
18 March 2023, 13:36	Faster Payment	S	£10
18 March 2023, 13:56	Faster Payment	S	£1,050
24 March 2023, 9:27	Faster Payment	S	£13,400

When Mr P attempted to withdraw his apparent gains he says he was asked to pay taxes and increase the balance of his account. At this point he became concerned and reported the matter to Revolut. He'd identified that, despite its claims, K was not regulated in the jurisdiction it claimed to be operating from.

Mr P asked Revolut to consider reimbursing him. It said that as he'd carried out the payments himself, it wasn't responsible for his loss. It also said that it had tried to recover the Faster Payments from the firm which received them but had been unable to do so and could not dispute the card payments through the chargeback scheme.

In addition, it said that it had provided Mr P with several warnings but he had chosen to proceed with the payments regardless.

Mr P, through a professional representative, referred the matter to our service. He argued that Revolut ought to have found the activity in dispute to be suspicious and questioned the payments before they were allowed to debit his account.

Revolut, in its submissions to our service argued:

- *All of the transactions were authorised by Mr P and, under the relevant regulations, it needs to execute payments without undue delay.*
- *The fraudulent activity did not take place on the Revolut platform, it was just an intermediary link between the consumer's own bank account and B. The payments from Mr P's Revolut account don't fit either the definition of an APP scam in the Dispute Resolution Rules ("DISP") or under the Lending Standards Board Contingent Reimbursement Model ("CRM Code") – of which it is not a signatory.*
- *It provided 'proportionate and appropriate warnings', but Mr P decided to cancel one of the payments rather than provide a reason for that payment. It could not refuse to make the payment altogether.*
- *Mr P failed to carry out sufficient due diligence and was negligent in his actions*
- *It had tried to recover Mr P's money (including through the chargeback scheme) but had been unsuccessful.*
- *It did not consider the payments to be suspicious as the initial payment from B was a credit – suggesting an existing relationship.*
- *It thought that a 'reasonable review' of the activity on Mr P's account indicated that he was a 'legitimate user of cryptocurrency platforms'. There was also no indication that he was making the payments under duress, given the significant gaps in time between the payments.*

One of our Investigators upheld the complaint in part. She agreed that Revolut shouldn't

have processed the £13,400 payment on 24 March 2023 (“the 24 March Payment”) without providing further warnings about the dangers of cryptocurrency scams. She concluded that, had such warnings been provided, Mr P was unlikely to have proceeded with that payment and his further loss would have been prevented.

Revolut, in response, argued that Mr P should also bear some responsibility for the loss. In support of its argument it pointed to the apparent lack of due diligence by Mr P. So, it offered to refund 50% of the 24 March Payment, as well as 8% simple interest per year on that amount.

After further consideration of the case, the Investigator concluded that as Mr P had received returns from the investment and seemed to trust the fraudsters, they were no longer persuaded that Revolut would have prevented his loss by providing a warning. They also agreed with Revolut that Mr P ought to have carried out more due diligence before going ahead with the payments, as his initial report of the scam to Revolut demonstrated he understood (or could have easily found out) how to establish the legitimacy of the firm. So the Investigator, on reflection, decided that she wouldn’t recommend that Revolut do anything further.

Mr P didn’t agree. In summary his representatives argued:

- There’s nothing within the conversation between Mr P and the fraudsters that suggests that he wouldn’t have listened to a warning provided by Revolut. Mr P was not given a cover story and wasn’t told to mislead Revolut.
- The fact Mr P seems pleased with being able to make a small withdrawal does not mean that he had ‘profound trust’ in the fraudsters.
- Had Revolut contacted Mr P before he made the payments, it would have been able to identify the numerous tell-tale signs that he was falling victim to a cryptocurrency investment scam.

As no agreement could be reached, the case was passed to me for a final decision.

What I’ve provisionally 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.

For the reasons I shall set out below, I am minded to conclude Revolut should, at the least, have provided a written warning specific to cryptocurrency investment scams prior to the 24 March Payment. If it had done so, I’m satisfied the scam, as well as the loss to Mr P from that payment, would more likely than not have been prevented. But I am also satisfied that in the circumstances of this complaint, Mr P should bear some responsibility (50%) for the losses he suffered. That means that I think Revolut’s offer to resolve this complaint is a fair one. I’ll explain why.

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.*
- The express terms of the current account contract may modify or alter that position. For example, 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 duty to do so.*

In this case, the terms of Revolut's contract with Mr P at the time did expressly allow it to refuse or delay a payment for a number of reasons, but those reasons did not explicitly include circumstances where Revolut believes its customer is at risk of financial harm from fraud.

So Revolut was required by the implied terms of its contract with Mr P and the Payment Services Regulations to carry out Mr P's instructions promptly, and (as Philipp reiterated) it was not under a contractual duty or obligation to concern itself with the wisdom of Mr P's payment decisions.

But the requirement to carry out an instruction promptly does not mean immediately¹. And whilst Revolut was not required or obliged under its contract with Mr P to concern itself with the wisdom of Mr P's payment decisions – for example by making fraud related enquiries – the contractual requirement to make payments promptly did not prevent it from doing so either.

Revolut could comply with the requirement to carry out payments promptly while still giving fraud warnings, or making further enquiries, prior to making the payment.

And, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good industry practice at the time, Revolut should in February and March 2023 fairly and reasonably 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 that view, 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;²*

¹ The Payment Services Regulation 2017 Reg. 86 states that “the payer's payment service provider must ensure that the amount of the payment transaction is credited to the payee's payment service provider's account **by the end of the business day following the time of receipt of the payment order**” (emphasis added).

² For example, Revolut's website explains it launched an automated anti-fraud system in August 2018:

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

In reaching my conclusions about what Revolut ought fairly and reasonably to have done, I am also mindful that

- *FCA regulated firms are required to conduct their “business with due skill, care and diligence” (FCA Principle for Businesses 2) and to “pay due regard to the interests of its customers” (Principle 6)³.*
- *Over the years, the FSA, and its successor the FCA, 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).*
- *The October 2017, BSI Code⁴, 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.*
- *Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency. 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 the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet.*

Overall, 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 in February and March 2023:

- *have been monitoring accounts and any payments made or received to counter*

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/

³ 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.

⁴ BSI: PAS 17271: 2017 “Protecting customers from financial harm as result of fraud or financial abuse”

- 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 financial harm from 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;
 - 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;

Should Revolut have recognised that Mr P was at risk of financial harm from fraud and were the steps it took to warn him sufficient?

It isn't in dispute that Mr P has fallen victim to a cruel scam here, nor that he authorised the disputed payments he made to his cryptocurrency wallet (from where his funds were subsequently transferred to the scammer).

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

Mr P had held his Revolut account for a number of years (since at least 2019). During that period Mr P mostly used his card for spending overseas. The same was true for the six months before the disputed transactions. The largest payment he made from his account during that period was for just £400.

I'm aware that cryptocurrency exchanges like B generally stipulate that the card used to purchase cryptocurrency at its exchange must be held in the name of the account holder, as must the account used to receive cash payments from the exchange. Revolut would have been aware of this fact and it seems to have identified that the card payments to B and the subsequent Faster Payments to S had the same destination – Mr P's cryptocurrency account at B. So, it could have reasonably assumed that all of the payments in question were to accounts in Mr P's own name. I'd also reasonably have expected it to make this connection given that payments to B were quickly followed by payments to S.

But by February and March 2023, firms like Revolut had been aware of the risk of multi-stage scams involving cryptocurrency (that is scams involving funds passing through more than one account controlled by the customer before being passed to a fraudster) 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 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 transactions⁵. That's particularly true of payments to B⁶. This left a smaller number of payment service providers, including Revolut, that allow customers to use their accounts to purchase cryptocurrency with few restrictions.

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 the vast 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.

So, taking into account all of the above, I am satisfied that, by the end of 2022, prior to the payments Mr P made in February and March 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. In those circumstances, as a matter of what I consider to have been fair and reasonable and good practice, Revolut should have had appropriate systems for making checks and delivering warnings before it processed such payments.

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 Mr P's own name should have led Revolut to believe there wasn't a risk of fraud.

So I've gone onto consider, taking into account what Revolut knew about the payments, at what point, if any, it ought to have identified that Mr P might be at a heightened risk of fraud.

Should Revolut have identified that Mr P might be at a heightened risk of fraud?

I'm conscious that the first Revolut transaction relating to B was actually a credit – indicating that Mr P had an existing relationship with that firm. It wasn't until four days later that Mr P began card payments to B. Those payments were the highest in value that Mr P had made in the previous six months and the second payment came around ten minutes after the first. That activity was somewhat unusual and I note that Revolut did not provide any warning (general or specific) in relation to these payments.

Nevertheless, taking into account that Revolut needs to strike a balance between protecting against fraud and not unduly hindering legitimate transactions, the relatively modest value of those payments and the evidence of a pre-existing relationship with B, I don't think Revolut ought to have been so concerned about those payments that it ought to have provided warnings to Mr P at this point.

It wasn't until a month later that Mr P began to make Faster Payments to S (those payments were effectively going to his account at B). Mr P made an initial £10 payment and this

⁵ See for example, Santander's limit of £1,000 per transaction and £3,000 in any 30-day rolling period introduced in November 2022.

⁶ NatWest Group, Barclays, Lloyds Banking Group and Santander had all blocked debit card payments to B by August 2021, with NatWest Group also blocked Faster Payments to B. B stopped taking on new U.K. customers in October 2023.

prompted Revolut to provide a warning. That warning said:

“Do you know and trust this payee? If you're unsure, don't pay them, as we may not be able to help you get your money back. Remember, fraudsters can impersonate others, and we will never ask you to make a payment.”

Mr P chose to proceed. When he attempted to make the £1,050 transfer a few minutes later he was provided with further warnings in the form of a ‘dynamic educational story’. Those warnings were also general in nature and indicated that the payment was at much higher risk than most payments Revolut processes, without providing any reasons why that might be the case.

Revolut says Mr P elected not to choose a payment reason from a pre-populated list and instead cancelled the payment. He then attempted to make the payment again. The second attempt at the payment was successful without any further warnings being provided.

While Mr P is unable to recall seeing the ‘dynamic education story’ or being asked to select a payment reason, he does recall cancelling the payment. He says that he’d intended to check whether the £10 payment made on 18 March 2023 had reached its intended destination but he realised that when he first attempted the £1,050 payment the same day, he had forgotten to do this. Therefore he made the payment again. This account of events is consistent with the timings of the payments and doesn’t suggest Mr P was reluctant to reveal the purpose of the payment.

Revolut appears to argue that had it asked again for a payment reason or made that question a condition of processing the payment that would amount to a refusal to make the payment. While I don’t think this point is directly relevant to the outcome here, I don’t agree. I think that it could legitimately have asked Mr P to provide a payment reason and deliver a warning, as Revolut did when Mr P attempted to make the £1,050 payment the first time, while still complying with its obligation to process the payment promptly.

But, while it would, in my view, have been more prudent for Revolut to have asked Mr P again about the purpose of the payment, I am not persuaded Revolut ultimately failed to act fairly and reasonably when making the £1,050 payment. I do not think the circumstances of the payment meant it should have taken additional steps or provided additional warnings before processing the payment Mr P was seeking to make.

I say this because there had been a month between the card payments and first transfers which indicated that Mr P was using the services of B without any issues. There was also no significant increase in value of the payments and, at this point, no significant grounds to believe that Mr P was at heightened risk of financial harm from fraud. That means that I don’t think it made a mistake by not providing a more tailored, or repeat, warning at this point.

However, the 24 March Payment of £13,400 was of significantly higher value than the payments that had come before it – it was more than four times the total amount sent to B by this point. In my view, the payment was a clear escalation in value and had the potential to cause significant financial harm to Mr P. Taken together with the earlier payments, I consider Revolut ought reasonably to have identified that a pattern had developed – of increasingly large payments to (very likely) a cryptocurrency provider – that could indicate Mr P was at risk of financial harm from fraud.

So when Mr P attempted to make the 24 March Payment, taking into account what I’ve said about the increased risk that cryptocurrency transactions presented, I think Revolut ought fairly and reasonably to have recognised the risk had increased and there was a heightened possibility that the transaction linked to a cryptocurrency scam. In line with the good industry

practice that I've set out above, I think Revolut should have provided a much more specific, tailored and impactful warning than those it had provided on the earlier payments, before allowing the £13,400 payment to go ahead. As noted, it did not provide a warning in relation to this payment.

To be clear, I do not suggest that in February and March 2023 every payment used to purchase cryptocurrency presented such a heightened risk of fraud that Revolut should have warned its customer before processing them. Instead, as I've explained, I think it was a combination of the characteristics of this payment and the circumstances in which the payment was made (including the payments Mr P had made before) to a payment service provider that, at the relevant time, was acting as a payment processor for a cryptocurrency provider (the same cryptocurrency provider that Mr P had paid very recently), that ought to have given Revolut sufficient cause for concern that Mr P could be at risk of suffering financial harm from fraud when he attempted to make 24 March Payment. In those circumstances, it should fairly and reasonably have taken additional, proportionate, steps before completing the payment.

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 duty to make payments promptly, as well as what I consider to have been good industry practice at the time this payment was made.

Taking that into account, I think Revolut ought, when Mr P attempted to make the 24 March Payment, knowing (or strongly suspecting) that the payment was going to a cryptocurrency provider, to have provided a warning (whether automated or in some other form) that was specifically about the risk of cryptocurrency scams, given how prevalent they had become by the end of 2022. In doing so, I recognise that it would be difficult for such a warning to cover off every permutation and variation of cryptocurrency scam, without significantly losing impact.

So, at this point in time, I think that such a warning should have addressed the key risks and features of the most common cryptocurrency scams – cryptocurrency investment scams. The warning Revolut ought fairly and reasonably to have provided should have highlighted, in clear and understandable terms, the key features of common cryptocurrency investment scams, for example referring to: 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.

I recognise that a warning of that kind could not have covered off all scenarios. But I think it would have been a proportionate way for Revolut to minimise the risk of financial harm to Mr P by covering the key features of scams affecting many customers but not imposing a level of friction disproportionate to the risk the payment presented.

If Revolut had provided a cryptocurrency investment scam warning, would that have prevented the losses Mr P incurred after that point?

I've thought carefully about whether a specific warning covering off the key features of cryptocurrency investment scams would have likely prevented any further loss in this case. And on the balance of probabilities, I think it would have. There were several key hallmarks of common cryptocurrency investment scams present in the circumstances of Mr P's payments, such as finding the investment through an advertisement endorsed by a public figure, being assisted by a broker and being asked to download remote access software so

they could help him open cryptocurrency wallets.

I've also reviewed the text conversation between Mr P and the fraudsters (though I note that Mr P appears to have spoken to the fraudster, not just communicated by instant message, and I haven't heard those conversations). I've found nothing within those conversations that suggests Mr P was asked, or agreed to, disregard any warning provided by Revolut. I've also seen no indication that Mr P expressed mistrust of Revolut or financial firms in general. Neither do I think that the conversation demonstrates a closeness of relationship that Revolut would have found difficult to counter through a warning. I understand that Mr P did not agree to the fraudsters demands for him to pay fees on his withdrawal and, it was his difficulty in withdrawing money that led him to research the company and find concerning information about it.

I've taken into account that Mr P had received modest actual returns at the point of suggested intervention, but the weight of evidence that I've outlined persuades me that Mr P was not so taken in by the fraudsters that he wouldn't have listened to the advice of Revolut. I've also seen no evidence that Mr P was provided with warnings by the firm from which the funds used for the scam appear to have originated. It seems unlikely that any warnings would have been given as his Revolut account appears to have been linked to that account for several years and therefore would have likely been an established and trusted payee.

Therefore, on the balance of probabilities, had Revolut provided Mr P with an impactful warning that gave details about cryptocurrency investment scams and how he could protect himself from the risk of fraud, I believe it would have resonated with him. He could have paused and looked more closely into the broker before proceeding, as well as making further enquiries into cryptocurrency scams and whether or not the broker was regulated in the UK or abroad (as he did, of his own accord, following this payment). I'm satisfied that a timely warning to Mr P from Revolut would very likely have caused him to take the steps he did take later – revealing the scam and preventing his further losses.

Is it fair and reasonable for Revolut to be held responsible for some of Mr P's loss?

In reaching my decision about what is fair and reasonable, I have taken into account that Mr P paid money using his Revolut account to another account in his own name, rather than directly to the fraudster, so he remained in control of his money after he made the payments, and there were further steps before the money was lost to the scammer.

However, for the reasons I have set out above, I am satisfied that it would be fair to hold Revolut responsible for Mr P's losses from the 24 March Payment, subject to a deduction for Mr P's own contribution towards his loss. As I have explained, the potential for multi-stage scams, particularly those involving cryptocurrency, ought to have been well known to Revolut. And as a matter of good practice, I consider it fair and reasonable that Revolut should have been on the look-out for payments presenting an additional scam risk including those involving multi-stage scams.

I have also taken into account that the 24 March Payment was made to a regulated business – S, and Mr P might potentially have a claim against S in respect of its actions (although S is not a party to this complaint and so I make no finding about its role here).

Whilst the dispute resolution rules (DISP) give me the power (but do not compel me) to require a financial business to pay a proportion of an award in circumstances where a consumer has made complaints against two financial businesses about connected circumstances, Mr P has not referred a complaint about S to me and DISP does not empower me to instruct Mr P to make or refer a complaint to me about another business.

Revolut has argued in submissions to our service that we are applying the provisions of the CRM Code to complaints against it, despite it not being a signatory and in circumstances where the CRM Code would not, in any case, apply. It also argues that the Payment Service Regulator's ("PSR") proposed mandatory reimbursement scheme will not require Revolut to reimburse Mr P.

I do not seek to treat Revolut as if it were a signatory to the CRM Code. I've explained in some detail the basis on which I think, fairly and reasonably, Revolut ought to have identified that Mr P was at risk of financial harm from fraud and taken further steps before the 24 March Payment debited his account.

I'm also aware that the Payment Service Regulator's ("PSR") proposed mandatory reimbursement scheme would not require Revolut to reimburse Mr P.

The PSR's proposals are not yet in force and are not relevant to my decision about what is fair and reasonable in this complaint. But I do not consider the fact that the PSR does not propose to make it compulsory for payment service providers to reimburse consumers who transfer money to an account in their own name as part of a multi-stage fraud, means that Revolut should not compensate Mr P in circumstances when it failed to act fairly and reasonably, as I have found was the case here. Indeed, the PSR has recently reminded firms that fraud victims have a right to make complaints and refer them to the Financial Ombudsman Service that exists separately from the intended reimbursement rights and that APP scam victims will still be able to bring complaints where they believe that the conduct of a firm has caused their loss (in addition to any claim under the reimbursement rules)⁷.

I do not consider it to be relevant that the circumstances here do not fall under the specific definition of an APP scam set out in the CRM Code and DISP rules. Those definitions define the scope of the CRM Code and eligibility of payers to complain about a payee's PSP respectively. They do not preclude me from considering whether Revolut failed to act fairly and reasonably when it made the 24 March Payment without providing a warning to Mr P. So, I'm satisfied Revolut should fairly and reasonably have provided a warning or made further enquiries before processing any further payments. If it had, it is more likely than not that the scam would have been exposed and Mr P would not have lost any more money. In those circumstances I am satisfied it is fair to hold Revolut responsible for some of Mr P's loss.

Should Mr P bear any responsibility for his loss?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

I recognise that, as a layman who claims to have little investment experience, there were aspects to the scam that would have appeared convincing. Mr P was introduced to it through an advert appearing to show a well-known media personality being interviewed on a popular television programme. I haven't seen this particular advert, but I've seen other examples. In my experience, they often appear as paid adverts on social media websites and a reasonable person might expect such adverts to be vetted in some way before being

⁷ "The reimbursement rules and their award limit differ from the rules which govern complaints under the Financial Ombudsman Service's dispute resolution rules (DISP). PSPs should therefore inform victims of APP scams that, in addition to their right to seek reimbursement under the reimbursement rules, they have the right to bring complaints against sending and receiving PSPs if they are dissatisfied with their conduct and consider this has caused their loss. Such complaints may ultimately be referred to the Financial Ombudsman Service." PSR PS23/4 7.18

published. Those adverts also can be very convincing – often linking to what appears to be a trusted and familiar news source.

I've also taken into account the provision of the trading platform (which, I understand, used genuine, albeit manipulated, software to demonstrate the apparent success of trades). I know that fraudsters used the apparent success of early trades and, as in this case, the apparent ability to withdraw funds to encourage increasingly large deposits. I can understand how what might have seemed like taking a chance with a relatively small sum of money snowballed into losing a life changing amount of money.

So I've taken all of that into account when deciding whether it would be fair for the reimbursement due to Mr P to be reduced. I think it should.

Mr P doesn't appear to have done any research into K before he invested. That fact alone wouldn't necessarily be enough for me to consider that there should be a deduction to the amount awarded. But I'm concerned by the promise of a "20% risk-free fixed income" which was promised prior to the 24 March Payment. While it's not clear what period this "20%" was over, I think Mr P should have recognised that the offer of risk-free trading in relation to volatile financial markets was simply too good to be true. I think this should, despite the overall plausibility of the scam, put him on notice that the scheme might not be genuine.

And, I'm struck by the fact that Mr P seems to have done much of the investigative work to establish that K wasn't genuine himself – seemingly while still in correspondence with the fraudsters (or very soon after). When he reported the matter to Revolut as a scam, he said the following:

"The Cyprus Securities and Exchange Commission has confirmed that K does not have a checked and verified number. 2. The Australian Security and Investment Commission has confirmed that the company also does not have a checked and verified number with them. 3. The Financial Conduct Authority in the UK has indicated that the company is not on their Financial Services Register. I have also seen several reviews online via Trust Pilot and other platforms which seem fake."

While I appreciate that Mr P's difficulty withdrawing funds was what caused him to be suspicious, the above statement indicates to me that it was within Mr P's capability to identify that the scheme wasn't genuine, and I think that the promise of a risk-free income ought to have alerted him to that possibility earlier. It follows that I think he should have made these enquiries before the 24 March Payment.

I've concluded, on balance, that Revolut can fairly reduce the amount it pays to Mr P because of his role in what happened. Weighing the fault that I've found on both sides, I think a fair deduction is 50%.

Could Revolut have done anything else to recover Mr P's money?

I've also thought about whether Revolut could have done more to recover the funds after Mr P reported the fraud.

The Faster Payments were sent to Mr P's own account at S, converted into cryptocurrency and then sent to the fraudster. Though Revolut says it attempted to recover those payments, in these circumstances, it's difficult to see how any recovery would have been possible. In relation to the card payments, they were used to purchase cryptocurrency, I'm not persuaded there would have been any reasonable prospect for a chargeback claim succeeding, as the merchant would be able to demonstrate that it had provided the

goods/services that had been purchased using the debit card (in this case, the cryptocurrency that was then sent on to the scammer). So I don't think there was anything more Revolut could've done to recover the money in these circumstances.

Overall, for the reasons I've explained, I consider that Revolut's offer to resolve this complaint is a fair one.

My provisional decision

For the reasons given above, I am provisionally minded to uphold in part this complaint and intend directing Revolut Ltd to pay Mr P:

- *50% of the 24 March Payment, a total of £6,700*
- *8% simple interest per year on that amount from the date of each payment to the date of settlement.*

Mr P accepted my provisional decision. Revolut said, in response, that while it does not agree with all of my reasoning, it will honour its offer. It said that it did not think it was necessary to provide additional comments or evidence.

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.

As Mr P accepted my provisional decision and Revolut has made no further substantive submissions, I see no reason to depart from my provisional decision set out above.

If Revolut considers that it's required by HM Revenue & Customs to deduct income tax from the interest I've awarded, it should tell Mr P how much it's taken off. It should also give Mr P a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons given above, I uphold in part this complaint and direct Revolut Ltd to pay Mr P:

- 50% of the 24 March Payment, a total of £6,700
- 8% simple interest per year on that amount from the date of that payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 25 April 2024.

Rich Drury
Ombudsman