

The complaint

Mr F complains that Starling Bank Limited decided he was liable for some transactions he disputed. He's also unhappy that the bank didn't step in to support him with his gambling.

What happened

Around November 2019, Mr F contacted Starling and said he didn't recognise several payments that had been made from his account. The payments had been made across several days in August 2019 and were for a total of around £19,000.

After Starling decided he was liable for the payments, Mr F complained. Mr F says there were other payments that he made to the merchant that received the funds, but the few he identified as part of this complaint weren't ones that he recognised.

Mr F says he hasn't shared his card details with anyone else and that he usually accessed the merchant's website using his mobile device or laptop. Mr F used the merchant's website to gamble and isn't sure whether someone could've seen his password when accessing his account.

Mr F also thinks Starling should've stepped in to help him because of the amount of gambling payments he'd been making via his bank account.

Starling decided that Mr F was liable for the disputed payments. The bank says it only became aware of the payments Mr F was making towards gambling when it investigated the disputed payments. Starling says it could've placed a gambling block on Mr F's account upon his request and that it would've been difficult to spot there was a problem - given Mr F was using his Starling account as a secondary account. Mr F remained unhappy and asked this service to review the matter.

Our investigator concluded that Starling had acted fairly when it said Mr F was liable for the disputed payments. The investigator also said that she didn't think that Starling had done something wrong in not reaching out to Mr F to support him with his gambling.

Mr F didn't agree and asked for an ombudsman to carry out a final review of his complaint.

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.

Generally, Starling can hold Mr F liable for the disputed transactions if the evidence suggests that it's more likely than not that he made or authorised them himself. The relevant regulations to this effect are the Payment Services Regulations 2017 (the PSRs 2017).

Were the payments authorised?

From the information I've seen, I'm satisfied the genuine card was used for the disputed payments. Mr F says he's not given access to his card details to anyone else. Mr F says his card details were stored on his account with the merchant, which he says he usually accessed using his mobile device or laptop. And the information Starling has provided breaking down each transaction shows that Mr F's card was used each time.

Starling provided us with a copy of the merchant's file that was obtained as part of the bank's investigation. This shows that the account with the merchant was set up under Mr F's name, using his date of birth, address and email. The merchant's information indicates that the use of Mr F's account remained consistent throughout – this includes the gameplay, device and the internet protocol (IP) address.

Looking at the gambling account history, it seems Mr F accessed and carried out transactions on this account several times each day – and the pattern of spending is consistent with Mr F's activity on the account around that time. Also, the IP address before, during and after the disputed payments seem to be the same. This suggests that someone with the same internet connection as Mr F carried out these payments.

As Mr F says, his card details and his log in details for his gambling account haven't been shared with anyone. So it's difficult to conclude how someone other than Mr F could've carried out the disputed payments. Moreover, as our investigator pointed out, the usage data for Mr F's gambling account and the close proximity of the disputed payments to this, makes it seem more likely that it was Mr F that carried out these payments. It doesn't seem plausible that someone else gained access to both Mr F's card and his gambling account only for the specific periods that the disputed payments took place, without Mr F knowing or agreeing to it.

Moreover, it seems each of the disputed payments were preceded by a large transfer of funds into Mr F's Starling account. For example, on 14 August 2019, a payment of £2,000 was paid to the merchant almost instantly after the same amount was transferred into Mr F's Starling account. This makes it seem more likely that it was indeed Mr F carrying out the disputed payments. There's nothing I've seen that indicates his bank account may have been compromised. So whoever carried out the payments would've needed to have known that sufficient funds had been credited to Mr F's bank account. And it's unlikely that someone other than Mr F would've been able to access his gambling account, his card and bank account at the same time.

The information Starling sent us shows that Mr F's online banking was accessed on some of the days the disputed payments took place, and the activity that was carried out needed a password for verification. Additionally, the make and model of the phone registered to Mr F's account is the same as the phone Mr F says he owns. So, I haven't seen anything that suggests anyone other than Mr F could've carried out this activity on his account.

So I'm of the view that Mr F authorised and consented to the payments he now disputes.

I've nevertheless considered whether an unknown third party could've carried out the disputed payments. Mr F suggests his password could've been compromised when he's accessed his gambling account in a more public setting. Mr F also provided a screen shot of a message he says he received from a credit reference agency, warning that his passwords had been stolen. But it's difficult to rely on this given the message isn't dated and doesn't include any particular details.

Also, if Mr F's card details were fraudulently used by an unknown third party, it's unlikely that the third party would use it to fraudulently carry out payments towards Mr F's gambling account. Any winnings would be paid to Mr F and not the fraudster, so the third party would

have nothing to gain. So the use of the card doesn't point to it having been in the hands of an opportunistic thief.

Instead, as I mentioned earlier, the pattern of spending seems to fit Mr F's spending history with the merchant. And, as there's no evidence that points to Mr F's bank account being compromised either, an unknown third party carrying out these payments seems unlikely to me – as the fraudster would've needed access to Mr F's bank account at the same time in order to know that funds had been deposited in to it. So I don't think an unknown third party fraudulently carried out these payments.

I've also considered whether someone close to Mr F could've carried out the disputed payments. It's a possible explanation, given the consistency in IP addresses between the disputed payments and the payments Mr F says were genuine – that were made around the same time.

But Mr F says his card details haven't been shared with anyone. And, given the pattern of spending is consistent with Mr F's usual account behaviour with this merchant and that the payer would've needed detailed knowledge of the deposits being made in to Mr F's bank account – I think it is unlikely that someone close to Mr F carried out these payments without his consent.

Taking everything into account, it's difficult for me to conclude that somebody other than Mr F carried out the payments he is now disputing. So I won't be asking Starling to reimburse him.

Gambling

It's clear from Mr F's banking activity that he spent large sums on gambling. Alongside the information provided by the merchant, it's apparent that Mr F was gambling regularly and often carrying out multiple transactions in one day. Mr F thinks that Starling should've stepped in to help him once the extent of his gambling was clear. He says he mainly used his savings and a loan to fund his gambling.

Starling says that Mr F never reached out for support and that it could've placed a gambling block on his account, upon his request.

Given the significant number of gambling payments that Mr F was making from his account, I can understand why he expects Starling to have done more. Had the bank stepped in sooner, it could've offered him support or placed a block on his account to prevent these types of transactions. But, in this instance, I don't think Starling did something wrong by not stepping in.

Looking at his statements, it seems to me that Mr F was using his Starling account as a secondary account. Any funds that were deposited were transferred from another one of Mr F's bank accounts held with a third-party bank. And it doesn't appear as though Mr F used his Starling account to pay for essential living costs. As our investigator pointed out, although Mr F spent a significant sum overall towards gambling, he also had significant winnings. And it seems he went into the agreed overdraft only on a few occasions.

As Starling wouldn't have had access to Mr F's third-party bank account, it would've been difficult to determine the impact the gambling was having on Mr F's day-to-day finances, as well as understand where he was getting the money from. Mr F rarely borrowed money using his overdraft and his deposits seem to suggest that he had access to enough money to fund his gambling.

Moreover, Starling says Mr F enabled some of the card control features shortly after opening the account. I can't say for certain whether Mr F was aware he could've blocked gambling transactions too – but I don't think the bank acted unfairly by not flagging this him, given his account activity made it seem as though he was managing his finances well. I also wouldn't expect Starling to automatically block gambling transactions unless Mr F asked it to.

So I'm not of the opinion that Starling needed to do more to support Mr F in stopping his gambling transactions.

My final decision

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 1 September 2021.

Abdul Ali
Ombudsman