

The complaint

Mr C complains that Starling Bank Limited will not refund money he lost to an investment scam. For the purposes of this decision, all reference to Mr C includes his representative.

What happened

I'm aware that I've condensed events in less detail than they were presented. I hope Mr C and Starling won't take it as a discourtesy that I've done that. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint – our rules allow me to do that. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

In summary, this complaint concerns a series of payments Mr C made from February to October 2021, to what he thought at the time was a genuine investment venture. All of the contended transactions were made using his Starling bank account; some were debit card payments, and others were made via faster payment transfers.

The payments were made on Mr C's belief that he was investing online with an investment service, which I'll refer to as 'T'. Mr C had struck up a conversation with an agent at T, who claimed to be able to make considerable profits for him. This led to Mr C depositing money to online accounts he held at currency exchange platforms, along with remitting money to various company bank accounts that T had instructed him to.

Initially, Mr C was happy with the arrangement and believed he was making healthy profits on his 'trades'. T had provided him with an online portal, which he thought showed he was making significant gains on the money he had paid. But towards the end of March 2021, Mr C had concerns that T was not allowing him to withdraw his profits.

In the end, on 22 March 2021, he reported this to Starling and asked the bank to retrieve the payments he had made. This was received according to the relevant recovery method, known as chargeback. Mr C told the bank that he needed the money back and that he had been scammed.

Shortly afterwards, Starling notified Mr C that the chargeback claim was unsuccessful, pursuant to the rules in place. It therefore didn't return any of the funds Mr C had paid to date. Based on what Mr C has explained, it's unclear what changed, as he then proceeded to pay what he thought was T a number of times. This was by way of payments to the same exchange platforms, along with a few others. Mr C has said he was convinced T was legitimate and acting in his best interests. This continued until, again, he became alarmed at being unable to be paid out the money he had supposedly earned, and his initial investment.

By early 2022, Mr C hadn't received any pay out and realised he had indeed been scammed all along – T was a fraudulent entity that had never actually invested any of his money. He asked Starling to refund his loss on the basis that the bank ought to have protected the account from being scammed. Starling disagreed and did not reimburse any of the disputed payments. It maintained this position when Mr C raised a corresponding complaint.

Unhappy with Starling, Mr C brought the matter to this service and one of our investigators considered what happened. He recommended that Starling refund 80% of the money Mr C sent from 12 March 2021. This was the point that he thought the bank ought to have stepped in, which would've resulted in Mr C no longer going ahead with T's instructions. Our investigator deducted 20% from this sum, bearing in mind Mr C's acts and omissions.

Both Starling and Mr C disagree with this assessment. Mr C accepted the payments prior to 12 March 2021 should not be reimbursed but cites that he should bear no deduction (and therefore receive 100% of what was paid on this date and thereafter). He later represented that he should be reimbursed in full from this point given he was vulnerable at the time, which Starling ought to have recognised. Mr C also suggested that not all of the payments should be considered as 'authorised', pursuant to the Payment Services Regulations 2017 ('PSRs').

Starling asserts that being asked to return money to Mr C in this manner is unfair. It submitted evidence to support its stance that Mr C should be held accountable for proceeding to remit money to what he thought was T after he identified that the outfit was a scam, i.e. after he raised the chargeback request. This would be on the principles of contributory negligence.

Because the parties are not in agreement, the case has been escalated to me to decide.

Provisional decision

I issued a provisional decision on this case on 16 August 2023. I've copied the findings and redress sections below:

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

My review has led me to arrive at a different outcome to our investigator; one that is less favourable to Mr C, which I recognise he will find disappointing. My intended decision is based on the balance of probabilities, relying on the available evidence and what I consider most likely to have happened in the circumstances.

So, unless my provisional findings are persuasively rebutted, my proposed decision will be as follows.

relevant considerations

One of the most important questions when a payment (or payments) are disputed is who 'authorised' it. In broad terms, 'authorised' in this context means that a consumer gave the business an instruction to make a payment from their account, in line with its terms and conditions.

Mr C has submitted that he didn't authorise all of the transactions in question, because his computer device was being controlled by the scammers using remote access technology. For completeness, there is a lack of evidence that this took place and it's unclear which payments Mr C is referring to. That said, remote access is a technique that can be employed in fraudulent schemes of this nature.

In any event, someone else having a degree of control of Mr C's banking account doesn't necessarily mean he didn't authorise a payment that ensued. In keeping with the PSRs, a payment can be considered authorised if the consumer has given their consent to the execution of the transaction. To put it another way, if the consumer knew that money was leaving their account, that payment would be an authorised one.

I'm satisfied that this is what happened here. Mr C has always said he was aware and consented to payments being made to T – he wanted to invest to make profit, hence why he believed in depositing money with the scheme. This is reinforced by his documented conversations with the bank and his own statement to this service. In other words, there is no question that he knew T was being paid from his Starling account. Consequently, my current thinking is that all of these disputed transactions were authorised.

As a starting position, Starling has an obligation to follow a consumer's payment instructions; in compliance with the PSRs and the terms and conditions of the account, it has a duty to fulfil payment requests correctly and promptly so that legitimate payments are made properly. To that end, even though it's not in question that Mr C was tricked into sending the money by scammers, because he authorised these payments, he starts off on the 'back-foot' when it comes to getting the money returned as Starling was following valid instructions.

Still, there are some situations where banks – taking into account the relevant rules, codes and best practice – ought to have been on alert or notice that something wasn't right or should have looked at the wider circumstances surrounding a transaction before making the payment.

In some circumstances, this might warrant an intervention from a bank, to pose reasonably probing questions as a means to guard against the risk of financial harm from fraud (amongst other things). Accordingly, I've looked into what this means for this case and whether Starling should have done more to prevent these disputed payments Mr C made.

unusual or uncharacteristic activity

When looking at Mr C's recent account activity, in particular the six months or so leading up to the payments in question, I am not persuaded the first four transactions (ranging from 17 February 2021 until the first of the two payments made on 12 March 2021) were significantly out of character to the extent that it would be reasonable for Starling's fraud prevention measures to have been 'triggered'.

It's evident there were multiple payments from Mr C's account, with comparable transaction values to those that he made towards the scam in the early months of 2021. The disputed transactions in this space of time had values that are not at all dissimilar to what Mr C would typically spend using this Starling account.

Mr C had replenished the account with at least ten credits within the past few months from accounts elsewhere. Therefore, there's a reasonable argument that, from the bank's perspective, these first four transactions were simply planned payments which was made possible by regular credits.

I also have to bear in mind that Mr C hadn't been with Starling for long – it's my understanding that he had only held a relationship with the bank for a little over eight months. The lack of information and history of expenditure naturally limited the amount of data that Starling had to accurately gauge Mr C's usual spending pattern. With this in mind, I'm minded to conclude that Starling did not act unreasonably by not questioning these first four disputed payments.

Conversely, I'm of the opinion that the fifth transaction (that being the £3,336.62 payment on 12 March 2021) was sufficiently unusual expenditure for Mr C's account. Mr C seemingly had regular spending and did occasionally send multiple payments on the same day. However, this second payment on 12 March 2021 marked a deviation from the account's usual operation as it was the second of two large payments to the same payee – which I can't see that Mr C had done before.

This c.£3,300 second payment was made in quick succession to the prior payment, whereas Mr C didn't tend to spend in this way. What's more, Starling is aware that smaller increments of money paid to the same destination is a technique employed by scammers to avoid a larger, one off payment being triggered by a bank. Instructing unwitting consumers to send funds in smaller chunks can be a means to avoid detection.

All things considered, I'm satisfied there were enough triggers of unusual or uncharacteristic activity that, in my opinion, a professional banker could and should have realised that something didn't look quite right – and that further enquiries would be appropriate before going further. Indeed, the parties have agreed that this was the point that Starling ought to have stepped in. So, it appears common ground has been reached (meaning I do not need to focus on this element of the case).

causation

Having concluded that Starling ought to have intervened with this payment, next I need to determine what difference (if any) such an intervention would've made. This is otherwise known as 'causation'. In order for me to require Starling to refund the disputed payments on the grounds of causation, I would need to be satisfied that the bank stepping in would've prevented the loss here.

I've thought carefully about what sort of questions Starling should've reasonably asked Mr C. Finding out details such as who the money is being paid to and why is accepted good practice in the banking industry because it generally affords bank staff a more informed position when deciding whether to proceed with the payment instruction without further enquiry. With that being the case, I find it would have been proportionate for Starling to have asked Miss O the purpose behind making this payment.

As far as I'm reasonably aware, Mr C knew he was paying a cryptocurrency exchange platform. T had explained to him that he needed to first send his money there (along with other online exchanges), in order to facilitate his investments. So, it seems probable that Mr C would've informed Starling that he was intending to send money for crypto.

Under the circumstances, it seems likely that Starling would've established that this payment was going to the consumer's own account with the exchange platform for the purposes of a crypto investment. I say so because, Mr C had opened accounts with the online exchange platforms to convert his fiat currency to crypto (before being sent onwards to the fraudsters). Given the industry guidance around such scams, and the very prominence of crypto-related fraud by the time of this payment, I'm satisfied the conversation should not have stopped on the basis that the money appeared to be going somewhere safe and within the Mr C's control.

By early 2021, it's my judgment that Starling had, or ought to have had, a good enough understanding of how these scams work – including that the consumer often moves money to an account in their own name before moving it on again to the fraudster – to have been able to identify the risk of harm from fraud. Not least, because Mr C was being promised exceptional returns reflected on a 'trading account' that T had sent to him. We know he had also been contacted via social media and his so-called 'broker' had a strong degree of control and influence over his financial affairs (whether they had remote access or not).

As a bank that often sees and tackles all types of fraud, I'm satisfied that appropriate questioning would have made it apparent to Starling that what Mr C was being promised by T had the hallmarks of a common and well-known scam. At the point of this second payment on 12 March 2021, I think it's more likely than not that bank staff would have become suspicious and escalated the matter accordingly. Consequently, I'm persuaded the scam would have come to light before it was too late, meaning that Mr C would not have proceeded with this transaction, nor the payments to T that ensued.

In light of this, I intend to direct Starling to refund the £3,336.62 Mr C paid on 12 March 2021, along with the disputed payments thereafter until 22 March 2021 (which I'll come onto, below). I currently find that these payments should be reimbursed in full, along with compensatory interest. Starling is aware of our service's approach to such redress; it should be paid at 8% simple per annum, from the date of the respective payments until the date of settlement.

the disputed payments after 22 March 2021

I've already explained why, at present, I find that Starling failed to detect and act upon a transaction which it ought to have intervened with – and that this would probably have meant that payment and those afterward would have been averted. Still, in fairness, the bank's conduct cannot be viewed in isolation; this should be weighed against the acts and omissions of Mr C. This can otherwise be referred to as 'contributory negligence'.

Contributory negligence is an important consideration when making an award. The concept derives from law and can be explained as weighing up whether a consumer should have done something to mitigate their losses, or if they should share some responsibility because they were partly to blame. In assessing whether Mr C was partly at fault, I need to consider whether he acted as a reasonable person would to protect himself against the loss he suffered. The test is objective but needs to take account of the relevant circumstances.

I've thought carefully about Mr C's situation throughout the material time; that being, from February 2021 when the contended transactions began, until October that same year when they finished. He says – and I accept – that he was an inexperienced investor who was not adept with the complexity of online trading. This was by no means his field of expertise and the software he was asked to download (which we know now to be a fabricated platform as part of T's scam) appeared legitimate.

It's not in question that this was a sophisticated scam. It appears to have been centred around a highly developed application that looked like a genuine investment programme. Mr C was led to believe this was where his money would be paid to once he had paid the initial beneficiaries of the payments.

Even so, what's distinct about this particular case is that, on 22 March 2021, shortly after making a payment that T directed him to make, Mr C reported to Starling that he wanted to reclaim payments he had made because he thought he had been scammed.

I've seen documentary evidence that Mr C asked Starling to raise a chargeback (the relevant method of recourse for card payments), specifically because he had been the subject of fraud at the hands of T. This came towards the beginning of the sequence of payments that Mr C is asking Starling to return to him.

Despite raising that he had been defrauded at this point, from early April 2021 (i.e. after only a matter of two weeks or so after raising the matter with Starling) Mr C then proceeded to try and send T over £63,000 across nearly twenty different transactions. This was upon the same agreement that he would be rewarded with profits earned from his investment, which he could 'see' on T's platform. I also understand that Mr C was in touch with the same agent(s) at T who's practices he had reported to Starling as fraudulent.

This is a critical deciding factor in this case. I cannot ignore that, in spite of his doubts and concerns about whether T was genuine, Mr C went on to pay a considerable amount of money. In keeping with the principles of contributory negligence, it's only fair for Mr C to be held responsible as he foresaw a risk of harm and proceeded nonetheless. Therefore, I am satisfied there should be a commensurate deduction in compensation here, which I find appropriate to apply to the payments made once Mr C had reported the chargeback to Starling.

I requested that Mr C provide greater insight into his decision making, to establish why he seemed to have a change of opinion on T. Because of the time that's since passed, Mr C explained that he has difficulty clearly remembering how and why he opted to go again with the outfit. Whilst I respect Mr C may not recall what happened, this naturally makes it difficult for me to consider whether his actions could be seen as that of a reasonable person. Without more context around his thoughts at the time, I must work on the basis of the available evidence.

Everything shows that Mr C was entertaining profound doubts about T – so much so he reported the outfit to his bank and asked it to try and recover money he'd already deposited. By his own admission, Mr C seriously questioned the legitimacy of T and why he'd experienced difficulty getting it to fulfil its promises. For the avoidance of any doubt, this was not Mr C questioning the withdrawal process or complaining about the speed of which he would receive a pay-out from a legitimate company. It was quite the opposite – the evidence demonstrates that Mr C specifically told Starling that he had been subjected to fraud.

Mr C did cite that he was vulnerable throughout this ordeal, namely because of his age. He has represented that this caused him to be susceptible to the scam and has questioned how Starling treated him. In particular, during the conversation where he raised the chargeback claim. I note that Mr C has not relied on this argument before and has proposed it at this late stage. Nonetheless, I have thought intently about his representations on this front, concentrating as he has on the recording of the call that took place on 22 March 2021.

My interpretation of this conversation is that Mr C wanted to put a stop to an agreement that had turned out to be untoward. He asked the bank for advice on how to reclaim what he had sent, setting out his concerns with T's practices. Bank staff at Starling duly recorded this and raised the chargeback as per its process, answering Mr C's questions. It's evident that Mr C was upset at having potentially lost quite a sum of money and it was agreed that the bank would be in touch once it had established the next steps in its endeavours to help him.

On account of this evidence, I could not safely conclude that Starling failed to recognise a vulnerable consumer. Its expected to provide its consumers with a level of care that is appropriate given their characteristics. Here, I'm satisfied that Starling took on board what Mr C was asking for; that is, assistance in trying to get back what he had already paid.

This conversation alone does not convince me that Mr C was vulnerable. Especially, when I balance it with his actions throughout the course of early to late 2021. Falling victim to a scam does not necessarily mean a consumer is vulnerable, even if that consumer is deceived more than once.

Besides, I'm aware of other relevant calls between Mr C and another financial services provider that he has a relationship with, HSBC bank. Along with weighing up how he interacted with Starling, I've also listened to a recording of a call that took place with HSBC in September 2021 whereby Mr C appeared confident and calm about making a payment towards T from his HSBC account. This conversation does not strike me as a consumer that was reluctant to make a decision, or who did not understand what they were doing. Indeed, Mr C was able to competently answer questions, conducting the call with the behaviour of a consumer that was carrying out a simple day to day task.

With that being the case, I'm not satisfied that Mr C's personal circumstances should warrant him to be refunded what has been lost here. And in line with industry guidance on vulnerability, when considering consumer protection, due regard must be paid to the general principle that consumers should take responsibility for their choices and decisions. As I see it, there is strong evidence that Mr C had the ability to do that.

Finally, I must also bear in mind the causative relevance Mr C's actions has to the payments that came after he reported T to Starling in March 2021. I've placed emphasis on the fact that Mr C – despite being aware of the risks of T – was happy to send considerable amounts of money out of his account once again, with the same goal of achieving a profit on his capital. I therefore have to assume that he was utterly persuaded that he was safe in paying out these sums and committed to going ahead.

The point being, notwithstanding the consideration of contributory negligence, even if I judged that Starling ought to have intervened with these later payments and/or taken further steps, it's not enough that a respondent failed to act fairly or reasonably; its wrongful acts or omissions must be the proximate (i.e. dominant and effective) cause of losses of a type that were reasonably foreseeable to the wrongdoer at the time of the breach.

Given the situation from Starling's perspective, it would not be reasonably foreseeable that a consumer would pay the same outfit once they had raised it as fraud. When reaching this finding, I've borne in mind that Mr C did not continue to pay the same beneficiaries for each of the payments after raising the chargeback with Starling (and he didn't pay T directly). Instead, others were paid – meaning that Starling could reasonably expect that he was no longer liaising with the scammers he had transacted with before.

Moreover, on at least two occasions Starling did enquire why Mr C was attempting payments in August and October 2021. Twice Mr C was asked a series of questions about the purpose of the payments and the nature of what he was doing. We know that Mr C was intending to remit money to T. However, in his answers he does not reveal this to Starling. In fact, he instead tells the bank that he hadn't been told to make the payment by somebody – which isn't strictly true, considering he was sending the money because T asked him to.

As well as that, when Starling asked what method of contact was used to provide him with the payment details, Mr C opted for 'face to face'. Yet, at no point has he pointed out to Starling or this service that he met anyone at T in person. Invariably, I find it fair to say that Mr C did not always provide Starling with factual answers to its enquiries – meaning that it wasn't to know that he had continued an association with T.

conclusion

I must follow the evidence and, ultimately, Mr C has not persuasively proven his case having been given a fair chance to do so. I naturally have a great deal of sympathy with Mr C being the victim of what was clearly a cruel scam.

But on balance, I cannot safely conclude that an intervention from Starling would've made a material difference here, and, with respect, I must bear in mind his actions have undoubtedly contributed to the situation he now finds himself in.

When apportioning liability, I have to consider that there's a compelling argument for Starling to expect Mr C to no longer deal with T or its agents when on notice that they were highly likely to be fraudulent. Whereas, it's without question that Mr C knew the risks of T and still continued to pay money out of his Starling account on its instruction. Then, when questioned by Starling, Mr C did not give accurate answers, obstructing the bank's ability to assist him.

Taking everything into consideration, I'm minded to determine that Mr C not be refunded any of the contended transactions that were made after 22 March 2021. In the circumstances, I find this to be just and equitable, taking into account the severity of both party's actions in the overall context of what happened.

My provisional decision

For the reasons set out above, I am minded to uphold this complaint in part and direct Starling Bank Limited to:

- Refund the disputed transactions from the £3,336.62 on 12 March 2021 up to and including the disputed payment on 22 March 2021; and*
- Pay 8% simple interest per annum on these amounts, from the date of payment until the date of settlement (less any tax lawfully deductible).*

Responses to my provisional decision

Mr C accepted that he should share some responsibility for what happened with the payments that occurred after 22 March 2021. But he did not agree that 100% of these transactions should not be returned to him on account of contributory negligence. Instead, he counters the liability should be shared between himself and Starling.

I've summarised his final representations:

- When Starling was told of the scam on 22 March 2021, it ought to have reacted differently, referring Mr C to the relevant fraud team to share insight and give advice relating to scams. Instead, it merely began the chargeback process, meaning that it took the wrong course of action.
- This is even more relevant given the clear vulnerabilities Mr C was displaying. In the circumstances, Starling has made a gross failure to recognise vulnerability and to take appropriate steps to protect Mr C.
- Ultimately, if Mr C's vulnerability and susceptibility to being scammed was duly recorded and responded to, and if Starling had better dealt with the first mention of a scam, subsequent staff interventions would have been much more effective and thorough.
- Finally, Mr C found it appropriate that myself, as the presiding Ombudsman, speak directly to him before issuing a final decision on the case. Based on the nature of his request, this would be deemed as asking for a 'hearing'.

Starling did not respond to my provisional decision. Accordingly, I can proceed on the basis that the bank accepts my proposed findings.

Now that both parties have had the opportunity to respond, the case has been returned to me for review.

Mr C's request for a hearing

I'll start with Mr C's request for me to speak to him directly. I appreciate why Mr C might believe this would assist my decision making. However, with respect, I do not see the need to provide further opportunity for him to make representations. Our service has given ample time and chance for all aspects of the case to be discussed and responded to. Including, the four-week period that I gave since I issued my provisional decision on 16 August 2023.

Pursuant to our case handling rules, I can decline a hearing request. As an Ombudsman, if I consider that the complaint can be fairly determined without convening a hearing, I can determine the complaint. I conclude I do have sufficient evidence to proceed without a hearing with Mr C. Besides, I'm aware that Mr C has a professional representative with whom he can converse over the phone and in person with. It would seem that, in the capacity of a representative, any and all important information can be conveyed to our service.

I have considered that Mr C has repeatedly told this office (including in his most recent correspondence) that he simply cannot remember why he continued to make payments towards T after 22 March 2021. He has explained that he has suffered natural cognitive decline and is unable to articulate exactly what happened.

With this in mind, I do not consider that the issues Mr C wishes to converse about in a hearing to be material to my determination; it strikes me that there is no further material evidence that can be provided beyond what has already been submitted by Mr C. In accordance with the rules I must follow, I have: ensured the parties have been given an opportunity to make representations; sent both parties a provisional assessment setting out my reasons and a time limit within which they must respond; and, now that Mr C has indicated disagreement, I will proceed to determination.

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.

I thank Mr C for his submissions. He maintains that Starling ought to have done more to protect him, so it should reimburse at least some of what he lost after reporting the chargeback/scam in March 2021.

I've reconsidered all of the evidence, focusing again on the points left in dispute. Both Mr C and Starling accepted my intended outcome regarding the £3,336.62 Mr C paid on 12 March 2021, along with the disputed payments thereafter until 22 March 2021. That being, these be refunded in full, with compensatory interest of 8% simple per annum. Where common ground has now been reached in this sense, I see no reason to depart from this aspect of my provisional findings.

I find that my provisional decision adequately explained why I do not deem, on the basis of the available evidence, that Starling ought to have recognised Mr C as a vulnerable consumer. Mr C has not provided any material new evidence about his circumstances at the time. That being the case, I do not deem it necessary to add to what I have already explained in this regard.

When a consumer raises a dispute in circumstances such as these, I accept that a professional bank like Starling should deal with the matter at hand while, where feasible, provide assistance and advice to help prevent the issue reoccurring again. For example, in a chargeback dispute, it seems logical that a bank might warn a consumer of the risk of using a certain merchant again if a consumer had difficulty receiving what they purchased or it was defective in some way. Such insight is in keeping with the principles of customer service and those expected in the financial services industry, as Mr C has signified in his submissions.

However, here we have a situation where Mr C has conceded that he had serious concerns about T but still proceeded to use the so-called investment group again. As I've already mentioned, this was not about the service provided or the speed or condition of what was being rendered. Mr C specifically said that T was out to scam him of his money. In all fairness, I cannot see how Starling should reasonably foresee that a consumer would enter that situation or relationship once more (or at least, without very good reason to).

It's not the same that one might try again after an unfavourable experience, if it looked like an honest mishap was the explanation before. Such as, let's say, using a merchant with an otherwise sound reputation that might not have delivered the required standard on one occasion. I see this as quite the opposite. Mr C had very good reason to believe that T was a scam and has provided no evidence or effective explanation for why he changed his view on T's legitimacy. There is no due diligence, research or independent advice that I'm aware of that persuaded him that T was genuine.

Even if Mr C was not sure whether to trust T again, I have to consider that he could have sought advice from Starling. The bank was somewhat aware of what had happened, having considered information Mr C had given it regarding the chargeback claim. And I have no compelling reason to think that bank staff would not have helped him and answered any questions it could have regarding T.

We know that Mr C did not enquire with Starling in this sense. The point being, as I explained in my provisional findings, it would not be reasonably foreseeable from Starling's standpoint that Mr C would go again with T. It would also not be an unreasonable expectation that Mr C check with his bank before sending further funds and his prior concerns had not since been placated with persuasive material or research. There is a general principle that a consumer has to take responsibility for their actions. Under these circumstances, it's reasonable that a bank would not expect a consumer to use a company if they strongly believed it to be fraudulent and had no compelling reason to change their mind.

Overall, I'm not persuaded that any room for improvement in Starling's dealings with Mr C should outweigh this when apportioning liability. Ultimately, I'm not persuaded that Mr C had a plausible reason for remitting money to T a short time after asking Starling to return money already paid to it that was stolen. I have to weigh up the share in responsibility for the payments being contended after 22 March 2021. Had Mr C taken reasonably foreseeable action and Starling failed to react accordingly, I would be requiring the bank to take its fair share of the blame.

Again, I appreciate Mr C may not remember exactly what led him to do this. But still, I would need a substantial and persuasive reason to expect Starling to reimburse money paid once he was aware of the very real risk of dealing with T. In all the circumstances, I am simply not convinced it's reasonable to ask the bank to make an award for these relevant payments in the absence of this.

In conclusion, while I recognise why Mr C may strongly disagree, I remain of the opinion that it's just and equitable for Starling not to refund any of the disputed transactions that took place after 22 March 2021. I therefore will not be directing the bank to make any award for these later payments.

My final decision

For the reasons given above and before, my final decision is that I uphold this complaint in part and direct Starling Bank Limited to:

- Refund the disputed transactions from the £3,336.62 on 12 March 2021 up to and including the disputed payment on 22 March 2021; and
- Pay 8% simple interest per annum on these amounts, from the date of payment until the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 October 2023.

Matthew Belcher
Ombudsman