

## **The complaint**

Mr W has complained Starling Bank Limited won't refund money he lost from his account as the result of a scam.

## **What happened**

Mr W holds both a personal and business account with Starling. The business account is in the name of E and is the subject of a separate complaint.

In 2022 Mr W received a call from someone stating they were from his bank, Starling. He was told a payment he'd made thinking it was genuine had been increased by fraudsters and that his phone had been compromised by spyware.

Mr W was immediately reassured that the call came from his actual bank as the person he was talking too seemed calm and thorough. At the same time he was extremely concerned about losing any money from his account. He was told he'd need to take action to ensure his money was kept safe. Mr W works outside and was distracted by the noise and the stress of what was happening.

Mr W then followed the instructions he was given to authorise three transactions. At the same time Mr W was being told who was actually trying to compromise him – a cryptocurrency company (who I'll call B). He understood that his payments to B would enable Starling to trace the payments and provide evidence against B, who Mr W believed were the scammers.

After Mr W was unable to get Starling back on the call using the number that had called him, Mr W realised something was wrong. He got in touch with Starling and asked them to refund him. They told him they wouldn't do so as he'd authorised the payments, not exercised sufficient caution and these payments weren't subject to the Contingent Reimbursement Model code for authorised push payments.

Mr W brought his complaint to the ombudsman service.

Our investigator noted Starling had provided no warnings to Mr W despite these transactions being of a high value and out of character for Mr W's account use.

She asked Starling to refund the two payments made from his personal account, along with 8% simple interest for the time period Mr W was without his money.

Starling disagreed with this outcome. They felt Mr W should be at least partially liable for the transactions as he'd not sufficiently challenged the person on the phone. They've asked an ombudsman to review the 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.

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

There's no dispute that Mr W made and authorised the payments. Mr W knew the reasons why he was being asked to make the card payments. At the stages he was making these payments, he believed he was taking urgent action to keep his own money safe and assist Starling. He believed once this had been done, he'd be able to get his own money back as he'd been reassured there was a bank insurance scheme to protect his money.

I don't dispute Mr W was scammed but under the Payment Services Regulations 2017, I'm satisfied the transactions were authorised.

It's also accepted that Starling has an obligation to follow Mr W's instructions. So in the first instance Mr W is presumed liable for his loss. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Starling should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- 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 (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions 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 its customers from the possibility of financial harm.

Mr W fell victim to a sophisticated scam. Unfortunately safe account scams – which is what this was – are not massively unusual. Mr W realises how this happened as he responded to a fake message supposedly from the NHS. This allowed fraudsters to know Mr W had accounts with Starling and meant they could tailor their approach to him and make it believable.

I know Starling have said they'd have expected Mr W to undertake some checks to ensure who was calling him was genuine. I disagree. I don't think this takes into account the stress that can be caused by these types of calls, and the panic they're meant to engender in the people who receive them. Particularly when I take into account Mr W's personal circumstances.

The fraudster was also able to explain in detail how Mr W should make the payments and direct him to the relevant aspects within Starling's app which helped to gain his trust.

Starling has confirmed they do have mechanisms in place to check unusual transactions, but Mr W wasn't doing anything sufficiently unusual to trigger any warnings.

However I find this surprising. Mr W by making a transfer from E's account to his personal account, then three payments in quick succession emptied his personal current account and E's account. This should have been sufficient for Starling to have taken action as these activities strike me as unusual.

I have taken into account that Mr W was presented with a warning stating that Starling would never contact him and ask him to use the specific screens. However by this time Mr W was convinced he was talking to his genuine bank so didn't see anything wrong in doing what he did.

There's no record of any similar card payments on Mr W's personal account within the preceding six months. I don't believe any argument that this reflects his normal payment behaviour would stack up.

For these reasons I believe Starling should have undertaken additional steps to intervene at the time the first payment of £4,864.55 was successfully authorised. Financial institutions are able to block card payments, and this is the step I'd have expected Starling to have taken here. This would have brought what was happening to an end as I'm sure if Mr W's card had been blocked, the fraudsters would have come off of the phone immediately.

As I say, safe account scams are not unusual. All banks are aware of how these operate. The use of a card to send payments to a money transfer service or as here, a cryptocurrency company, is particularly prevalent. This limits banks' ability to send messages which can be done when customers are making online transactions.

### **Putting things right**

As I believe any intervention Starling should have made would have changed what happened here, I am going to ask them to refund the two disputed payments Mr W made from his current account. They will also need to add 8% simple interest to those amounts.

This has had a massive impact on Mr W, shattering his confidence and impacting his ability over the last year to participate in important family events. I'm really sorry that this is so. Unfortunately I don't believe it would be fair to ask Starling to provide additional compensation, although I have considered this carefully,.

### **My final decision**

For the reasons given, my final decision is to instruct Starling Bank Limited to:

- Refund two disputed payments being £4,864.55 and £1,787.88 to Mr W;
- Add 8% simple interest from 18 February 2022 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 September 2023.

Sandra Quinn  
**Ombudsman**