

The complaint

Mr X complains that Starling Bank Limited blocked and closed his account. He also complains that Starling haven't released money that was paid into his account to him.

What happened

Mr X had an account with Starling. Mr X used the account to receive payments from selling cryptocurrency.

Mr X used a cryptocurrency trading platform, which I will refer to as B to advertise and sell cryptocurrency. Mr X has explained that he posted adverts via B's platform. If a buyer was interested, they'd indicate they wanted to buy cryptocurrency from Mr X via the platform and send the payment to Mr X's Starling bank account. Mr X would then send the cryptocurrency to the buyer.

In February 2021, Mr X received five separate payments into his Starling account totalling just over £9,000, from an individual I will refer to as Ms C. Mr X has explained that the payments were for cryptocurrency, he had sold via B. Mr X transferred the funds he received from Ms C out to B and to another bank account he held.

Between 11 March 2021 and 17 March 2021, Mr X sold more crypto currency to another individual who I will refer to as Mr D. Again, the sales were completed via B's platform. Mr X received a total of £1,180 for five separate cryptocurrency sales.

On 18 March 2021, Starling received a notification from another bank that their customer, Ms C had been the victim of a scam: she had fallen victim to an investment scam after meeting someone online. And her funds were then used to pay Mr X for cryptocurrency. As a result of this information Starling blocked Mr X's account and asked him to provide information about the payments he'd received from Ms C. Starling told Mr X that Ms C had claimed that the payments she'd made to him were fraudulent.

Mr X responded and said he hadn't done anything wrong. He said Ms C had been defrauded by others and that he had nothing to do with what had happened. He explained that he had followed the rules set by B, and provided evidence that he'd sold cryptocurrency to Ms C. He sent Starling screen shots of the payments he received from Ms C and cryptocurrency being released. He also provided WhatsApp messages between him and Ms C which showed that around the time of the sales, Ms C was making investments with a third party.

In the messages Ms C asked Mr X for more cryptocurrency as the third party had asked her to pay tax. Mr X warned Ms C that this request sounded like fraud and to go to the police. Starling said it would review everything Mr X had provided. Starling didn't question Mr X about the payments he received from Mr D.

In June 2021, Starling received an indemnity from another financial business for the payments Mr X received from Mr D. In response Starling returned all the payments to the sending business, amounting to £1,080, which had been paid into Mr X's account for the

cryptocurrency. Mr X complained to Starling and asked them to return the money to him. He told Starling that the transactions were legitimate and done in good faith. He said he had no knowledge that there was anything untoward about the funds coming into his account and Starling should have spoken to him at the time. He explained he was now out of pocket and without his cryptocurrency.

In response, Starling said it hadn't done anything wrong and wouldn't return the £1,080 to him. Following this Starling decided to close Mr X's account and released his balance of just under £40 back to him. Starling closed Mr X's account on 23 June 2021 and said it wouldn't provide Mr X with any more information.

Unhappy with this response Mr X brought his complaint to our service. One of our investigator's looked into what had happened. And asked Mr X for some more information about the activity on his account. Mr X provided the investigator with screenshots showing his sales of cryptocurrency to Mr D.

The investigator looked at the information Mr X had provided. He said Starling hadn't done anything wrong by closing and reviewing Mr X's account. He said Mr X hadn't provided Starling with the information about his dealings with Mr D at the time, so Starling hadn't done anything wrong when it had returned the funds back to the sending business. Mr X disagreed. He said he hadn't done anything wrong, and that Starling had treated him unfairly when it sent his money back.

As no agreement could be reached the matter came to me to decide. On 23 May 2023 I issued a provisional decision in which I said the following:

The crux of Mr X's complaint is that he wants Starling to refund him the money he says he lost as a result of the cryptocurrency sales he made. Having looked at all the evidence and circumstances of this complaint, I'm currently minded to say that the fair and reasonable outcome is that Starling refund Mr X. I shall explain why.

First, I'd like to acknowledge the difficulties that this complaint presents. There was a particular tension for Starling here because on the face of it, both Mr X and Mr D were victims. There is a natural impulse to restore positions as far as possible. It is well documented that banking fraud is very damaging not only to the financial sector itself, but more particularly to individuals.

Starling decided to return the funds to the sending business, so that it's customer, Mr D could be refunded. Starling said it did this on the basis that the sending business had provided Starling with an indemnity. The effect of Starling's actions meant that Mr X had lost both his cryptocurrency which he'd sold legitimately to Mr D and the money he had expected in payment for it.

In this case Mr X had a credible complaint. There's no evidence to suggest Mr X dishonestly procured the funds from Mr D. Nor is there any evidence that he knew, believed, or suspected that the funds had been illegitimately procured by someone else in order to pay for the cryptocurrency.

Starling have said they were obliged to return the funds after receiving an indemnity for the sending business. However, I disagree with this. An indemnity is simply an agreement between the two financial businesses that provides some protection to the receiving bank being asked to return the funds by the sending business. It doesn't compel the receiving bank to return the funds, if following its own investigation, it establishes that its customer has a legal right to the money and was not involved in any fraud or scam. So, I don't agree that the indemnity Starling received from the sending business placed any legal obligations on them to return the money.

I've also looked at Starling's terms and conditions and I can't see that there is a specific term that allows the bank to do what it did. However, even if there were I'd expect Starling to carry out its own investigation to establish if Mr X had behaved fraudulently and to investigate the sending businesses' claim. This is in line with the industry best practice standards when receiving a report that their consumer has been the recipient of fraudulent funds. With this in mind, I don't accept Starling acted fairly when it returned the payments to source.

I say this because Mr X has provided this service with information about the transactions. He's sent us evidence that the payments were made by Mr D through B. It appears the cryptocurrency was held by B until Mr D had made payment to Mr X's Starling account – at which point Mr X released the cryptocurrency to Mr D. I note too from looking at Mr X's bank statement that Mr D appears to have bought cryptocurrency from Mr X on 4 and 8 March 2021, without issue. I've not seen any evidence that Starling asked Mr X about the payments he received from Mr D before it decided to return them to source.

If Starling had asked Mr X about his dealings with Mr D, I think it's likely he would've provided the information that he has given to this service to the bank at the time. Therefore, I can't see any reason for Starling to return the money to the sending bank. But I haven't seen anything to show that Starling asked Mr X about the transactions with Mr D or contacted the sending bank to investigate things further in light of what Mr X told the bank about selling cryptocurrency to different individuals. Based on what I've seen I think it's most likely Mr X was engaged in genuine cryptocurrency transactions. So, I find the fair resolution here, based on the information I've seen so far, would be for Starling to return the funds it took from Mr X's account.

I then turn to the bank's decision to close Mr X's account. I'm satisfied that the bank acted in line with the account terms and relevant regulations when it decided to close Mr X's account. So, I can't say the bank has done anything wrong or treated Mr X unfairly when it closed his account.

In summary, Starling's actions caused Mr X a great deal of worry and upset. Mr X had to spend time contacting Starling trying to sort out what had happened to his funds. He was left out of pocket, and I don't think Starling did enough to satisfy themselves that Mr X wasn't entitled to the money paid into his account. So, I think they should refund him as he is now at a loss. And I think adding interest to the amount they refund him fairly compensates him for the loss of use of his money. I also think Starling should pay compensation for the trouble and upset this overall situation has caused Mr X and I consider the amount of £100 to be appropriate in the circumstances.

My provisional decision was that I partly uphold Mr X's complaint. To put things right Starling Bank Limited should:

- Refund Mr X £1,080
- Pay Mr X simple interest at the rate of 8% on £1,080 from the date of debit until the date of refund.
- Pay an additional £100 for the trouble and upset caused by returning the £1,080 to source

Mr X accepted my provisional decision. Starling didn't respond.

Now both sides have had an opportunity to comment I can go ahead and issue my final decision.

What I've decided – and why

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

As neither party has provided anything new for me to consider, I see no reason to depart from my provisional findings. I remain of the view that this complaint should be upheld for the reasons set out in my provisional decision, which are repeated above and form part of this decision.

My final decision

For the reasons I've explained, my final decision is that I partly uphold this complaint. To put things right Starling Bank Limited should do the following:

- Refund Mr X £1,080
- Pay Mr X simple interest at the rate of 8% on £1,080 from the date of debit until the date of refund.
- Pay an additional £100 for the trouble and upset caused by returning the £1,080 to source

HM Revenue & Customs requires Starling Bank Limited to withhold income tax from the above- mentioned interest. Starling should give Mr X a certificate showing how much is taken off if Mr X asks for one.

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

Sharon Kerrison
Ombudsman