

## Complaint

Mr H is unhappy that Starling Bank Limited hasn't reimbursed him after he fell victim to an investment scam. Mr H is represented in bringing this complaint, but for simplicity's sake I've generally referred to him in the text of the decision.

## Background

In January 2021, Mr H fell victim to an investment scam. He was a student at the time and an acquaintance told him about an opportunity to earn major returns by investing in cryptocurrency. He was given the contact number of an advisor who agreed to help him manage his investments. Unfortunately, the person he contacted appears not to have been legitimate, but a fraudster.

Mr H was asked to create an account with a third-party cryptocurrency platform. £250 was deposited into Mr H's account with Starling. He immediately transferred this to his e-wallet with the crypto platform. He says that this was a "test" payment to ensure that the crypto account had been properly configured and that he was to return the payment back to the advisor the same day. Mr H then received a further payment of £250 into his Starling account and a student loan payment of a little under £4,000. He went on to transfer £3,926.67 from his Starling account to his e-wallet with the crypto platform.

He says that, on 5 January, he realised that his e-wallet with the crypto platform had been emptied and so suspected that he'd fallen victim to a scam. On 7 January, he contacted Starling to say that he didn't authorise the payments from his account. The same day the person who made the £250 deposits into his account complained to their bank that they'd been the victim of a scam. Starling has since closed Mr H's account and loaded a Cifas marker against his name.

In September 2022, Mr H's representatives raised a case with Starling in which they alleged he *had* authorised the payments but that he'd fallen victim to an authorised push payment (APP) scam. Starling didn't agree to reimburse him. Mr H was unhappy with that and so he referred his complaint to this service. It was looked at by an Investigator who didn't uphold it.

The Investigator said that Starling was expected to be on the lookout for unusual or out of character account activity that might have been an indication of fraud risk. He was persuaded that the payment of £3,926.67 was unusual and out of character. It was the Investigator's view that Starling shouldn't have processed that payment without first contacting Mr H to ensure that he wasn't at risk of financial harm due to fraud. However, given that Mr H appeared to have given misleading information to Starling, the Investigator wasn't persuaded that Mr H would have answered the bank's questions openly and honestly and so any attempt by the bank to protect him would be unlikely to succeed.

Mr H disagreed with the Investigator's view and so the complaint has been passed to me to consider and come to a final decision.

## **Findings**

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 can't safely uphold it and ask that Starling reimburse Mr H. One of the principal reasons is that I'm not persuaded he's come to us with clean hands – in other words, I'm concerned that he's been disingenuous in describing the circumstances in which he fell victim to this scam. Overall, I find that Mr H has changed his version of events significantly and contradicted himself. In the light of that, it's difficult to consider his evidence reliable, particularly since he's been able to provide so little by way of direct evidence of the communications he had with the scammer.

Good industry practice required that Starling be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified. I'd agree with the Investigator's conclusion that the payment of £3,926.67 was sufficiently out of character that an intervention by the bank would've been justified. However, I need to be persuaded that the failure to intervene was the cause of his losses here. In other words, I need to consider what would've happened if it had called him. Unfortunately, I agree with the Investigator's conclusion that the evidence doesn't suggest that he'd have been open and honest in answering the bank's questions. I think any effort by an employee of the bank to protect him from the risk of fraud would've been undermined by that.

Mr H has attributed the contradictions in his version of events to the fact that he was in poor mental health as a result of being defrauded and that his memory began to falter and he was unable to understand the situation. I sympathise with the difficulties Mr H was experiencing. I recognise that, at the root of this, he's most likely fallen victim to a cruel and cynical crime. Unfortunately, I'm not persuaded that this changes the outcome of the case. Mr H's initial claim that he didn't authorise the two transfers of £250 was made immediately after the scam came to light. Given that, I'm not convinced a failing memory would explain why he gave the bank misleading information at the time.

## **Final decision**

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 March 2024 .

James Kimmitt  
**Ombudsman**