

## The complaint

Mrs G complains that Starling Bank Limited won't refund the money she lost when she was the victim of a scam.

## What happened

In May 2023, Mrs G received a text message from a number she hadn't been contacted from before and which she thought was from her father. The message said their phone was broken and that this was their new number. And, after a short conversation, the messages said they had two invoices to pay but couldn't get into their account because of the phone, so asked Mrs G if she could pay them. As Mrs G believed the messages were coming from her father, she then made two payments from her Starling account to the bank details the messages gave her, as set out below:

Date	Amount
15 May 2023	£2,790
15 May 2023	£3,495

Unfortunately, we now know the messages weren't coming from her father but were being sent by a scammer. Mrs G says she realised something wasn't right when the messages asked her to make a third payment. She tried calling the number the messages were coming from, but there was no answer. So she then contacted Starling to report the two payments she had made as a scam and ask it to refund the money she had lost.

Starling investigated and said it felt it had sufficient fraud prevention measures in place, but that Mrs G didn't take reasonable steps to check if the payments were genuine. It paid her £75 as compensation for the delays in dealing with her claim, but didn't agree to refund any of the money she lost. It also said it hadn't been able to recover any of the money from the bank it was sent to. Mrs G wasn't satisfied with Starling's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think Starling had established that Mrs G made the payments without a reasonable basis for believing that they were genuine, or that Mrs G had ignored an effective warning in relation to the payments. So they thought Starling should refund the money Mrs G lost, in full. Starling responded, offering to refund 50% of the money Mrs G lost, but Mrs G didn't accept this offer and so the complaint has been passed to me.

## 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.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may

sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Starling is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Mrs G fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without a reasonable basis for believing that:
  - o the payee was the person the customer was expecting to pay;
  - o the payment was for genuine goods or services; and/or
  - o the person or business with whom they transacted was legitimate

There are further exceptions within the CRM code, but these don't apply here.

*Did Mrs G ignore an effective warning in relation to the payments?*

The CRM code says that an effective warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And it says that, as a minimum, an effective warning should be understandable, clear, impactful, timely and specific.

Starling has sent us a copy of the warning Mrs G was shown before she made the payments, which said:

***“Could this payee be part of a scam?”***

*Always verify who you are sending money to as **you may not be able to recover these funds**. A fraudster may tell you to ignore these warnings.*

*Call us ... or visit **our website** for scam advice.”*

It's also sent us evidence showing Mrs G was asked a series of questions before making the second payment, which included the following warnings:

*“Be wary of anyone guiding you through these questions. Is someone telling you how to send this payment, which buttons to tap, or asking you to read this screen? If so, you're probably talking to a scammer – cancel this payment and call us. Starling will never ask you to move money to keep it safe. If you send money to a criminal, you could lose it all.”*

*“Take a moment to think. A bank or any other organisation will never tell you to move money to a new, 'safe' bank account. Fraudsters can make phone calls appear to come from a different number. If you transfer money to a fraudster, you might not get it back. If you're not sure the payment is genuine, stop and call us...”*

But while this first warning does mention the possibility of this being part of a scam and to always verify who you are sending money to, I think it's too vague about the risks a customer could be facing here. I don't think it's detailed or specific enough about what this kind of scam could look or feel like. And I don't think it does enough to help a customer understand

the warning signs that could suggest they were the victim of a scam or the possible steps they could take to avoid this kind of scam.

And the warnings from the series of questions mention a number of things that weren't relevant to Mrs G's circumstances, like being guided through the questions or a bank telling them to move money, which I think will have made these warnings seem less applicable to her.

So I don't think these warnings Mrs G was shown were specific or impactful enough to be effective in her circumstances. And so I don't think Starling has established that Mrs G ignored an effective warning in relation to the payments she made.

*Did Mrs G have a reasonable basis for belief when making the payments?*

These types of scams are particularly cruel and play on the trust and emotive nature of the relationship between a parent and their child. And while the initial message Mrs G received was addressed *to* 'Dad' rather than *from* 'Dad', I don't think it was unreasonable for her to assume the messages were coming from her father – particularly given what she's told us about him being abroad for the first time since major surgery and it not being uncommon for him to communicate by text message or late at night.

The messages Mrs G received engaged with her in a conversation about trying to fix the broken phone. There was also a gap of more than an hour between Mrs G first responding to the messages and the messages first asking for money, and the messages expressed embarrassment at asking for help. So I don't think the subject of the payments will have felt forced or unnatural, or that anything in the language of the messages should have suggested to Mrs G that they weren't coming from her father.

Mrs G has said her father had previously damaged his phone by dropping it, and so I don't think the circumstances in which she was told the phone had been damaged here will have seemed implausible. And she's said her father has a number of work clients and was often buying computer parts for work, so I think it's reasonable that being asked to pay invoices in the way she was wouldn't have seemed particularly suspicious to her and wouldn't have caused her significant concern.

Starling has suggested Mrs G should have called the number the messages were coming from, and taken time to consider the request for money, before making a payment. But Mrs G has said she didn't call as it was late where her father was and she didn't want to wake his wife or embarrass him if he hadn't told his wife what had happened, which I don't think is unreasonable. And she's said her father had recently had major surgery and she was worried the stress of the situation would make his health condition worse and wanted to help as quickly as possible, which I also don't think is unreasonable.

Starling has also said Mrs G didn't answer the questions it asked before the second payment in a way that accurately represented the situation. But from what I've seen, Mrs G answered that the payment for was a laptop, as she was told it was. She also checked with the person sending the messages about whether the laptop was received and how contact with the seller was made, and then communicated the answers she was given to Starling. So I don't think she deliberately misled Starling when answering the questions or that anything that came up while she was answering the questions should have caused her significant concern.

Mrs G also realised something wasn't right when the messages asked her to make a third payment. And I think this was a reasonable point to become suspicious, and I don't think it was unreasonable that she wasn't more suspicious sooner.

I appreciate that, with the benefit of hindsight, it is possible to identify a number of things about what was happening and what she was told that could have caused Mrs G more concern. But, in the moment, I don't think these concerns were significant enough to overcome Mrs G's initial trust that she was speaking to her father and her desire to help him. And I don't think they were significant enough to say that Mrs G acted unreasonably in not carrying out further checks and in still believing she was speaking to her father.

So I don't think Starling has established that Mrs G didn't have a reasonable basis for belief when she made the payments.

Overall then, I don't think Starling has established that any of the exclusions to reimbursement under the CRM code apply here. So I think it should refund the money Mrs G lost, in full, under the terms of the CRM code.

### *Interest*

Our investigator recommended that Starling pay interest on the refund from the date the payments were made. But, from what I've seen of the circumstances of this case, I wouldn't have expected Starling to intervene further when the payments were being made – only to refund the payments under the CRM code after Mrs G raised the scam with it.

So I think the appropriate settlement here would be for Starling to pay 8% interest on the refund from the date it initially responded to Mrs G's scam claim until the date of settlement.

### *Customer Service*

Starling has paid Mrs G £75 as compensation for the delays she experienced when she raised this claim. And, from what I've seen, I think this is fair and reasonable compensation for the distress and inconvenience this poor customer service caused her. So I don't think it would be fair to require Starling to pay any further compensation.

## **My final decision**

For the reasons set out above, I uphold this complaint and require Starling Bank Limited to:

- Refund Mrs G the £6,285 she lost as a result of this scam
- Pay Mrs G 8% simple interest on this refund, from the date it initially responded to her claim, until the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 10 May 2024.

Alan Millward  
**Ombudsman**