

The complaint

K, a limited company, complains that Starling Bank Limited have not refunded all of the payments it lost as part of a scam.

What happened

K is a limited company, and Mr C has brought the complaint on its behalf. As both parties in this complaint are aware of the circumstances, I won't repeat in detail what happened. In summary, Mr C received a phone call from what it has since been found was a scammer. They convinced him that K's account was at risk, and he needed to transfer funds to a 'safe account'. As a result, he made two debit card payments from K's account via a third-party payment service. These were both for £5,000.

Soon after, Mr C realised that K had been the victim of a scam and raised a claim with Starling Bank. They looked into it and agreed that the second payment should have flagged, so they refunded this into K's account. However, they didn't agree they made an error when they didn't flag the first payment for further checks. Because of this, they didn't agree this needed to be refunded. K disagreed with this and referred the complaint to our service to pursue the remaining £5,000 payment.

Our Investigator looked into it and they agreed with what Starling Bank had done so far. So they didn't recommend that the first payment of £5,000 be refunded. As K did not agree, the complaint has been passed to me for a 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

It's not in dispute here that Mr C authorised the two payments of £5,000 on behalf of K, as he believed he was protecting its funds. So, while I recognise that he didn't intend the money to go to scammers, the starting position in law is that Starling Bank was obliged to follow Mr C's instruction for K and process the payments. Because of this, K is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've also thought about whether Starling Bank did enough to try to keep K's account safe.

To do this, I've looked at K's statement to see if the payments in question were suspicious enough to have warranted intervention by Starling Bank prior to them being processed. Looking at the initial payment of £5,000, I don't think this was particularly out of character when compared to the genuine account activity. K regularly made payments of similar or higher values, so it doesn't stand out as unusual. Because of this, I don't think Starling Bank should reasonably have intervened prior to the payment being processed.

The second payment was made just minutes later, which can sometimes be an indication of a scam payment. In any event, this payment has been refunded by Starling Bank, so I don't think this needs to be looked into in more detail.

I've considered if Starling Bank could have done more to try and recover the initial payment of £5,000 once it was aware of the scam. As this was a debit card payment seemingly to a business, Starling Bank could only attempt to recover the funds via a chargeback. However, chargebacks can only be attempted under certain circumstances as only specific codes can be selected as the main reason for a chargeback. In this case, as K did not actually attempt to purchase anything, there wouldn't be an appropriate code to select for this circumstance. Because of this, I don't think Starling Bank made an error when it did not attempt a chargeback for K.

On balance, I think what Starling Bank has done so far to remedy the complaint is fair and I don't direct it to take any further action.

My final decision

I do not uphold K's complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask K to accept or reject my decision before 7 March 2024.

Rebecca Norris
Ombudsman