

## The complaint

Mrs T (on behalf of E) is unhappy Starling Bank Limited ("Starling") hasn't refunded her, in full, the money she lost after falling victim to an Authorised Push Payment ("APP") impersonation / safe account scam.

## What happened

The details of this case have been clearly set out by our Investigator. As such, the facts are well-known to both parties, so I don't need to repeat them at length here. In summary, Mrs T fell victim to an impersonation / safe account scam.

In August 2023, Mrs T in preparation for a lengthy trip abroad, had ordered some items online. On 14 August 2023, Mrs T was contacted by someone purporting to be from another banking provider with whom she holds an account (who I'll refer to as 'Bank A').

Unfortunately it wasn't someone from Bank A, but a fraudster impersonating them. Mrs T was out at the time and a call back was arranged for 4pm. The fraudster called again and, as Mrs T was still out, they arranged to speak between 6-7pm. Mrs T never received the call back that evening but was called the next day (15 August 2023) shortly before 10am.

Mrs T believed it was Bank A, as one of the payments she had made for one of her online purchases had been declined due to a discrepancy with her billing address, which she had discussed and sorted with Bank A. So she thought Bank A were contacting her about that.

The scammer contacted Mrs T on 15 August 2023 and advised that there had been payments attempted on her account – which Mrs T hadn't made. As a result, Mrs T was advised that her account was at risk and that she would have to upgrade / secure her accounts. The scammer explained that he would do that by creating fake accounts to disguise her from the fraudsters.

The scammer also asked if Mrs T held any other accounts – with Mrs T advising of her account held with Starling and another account held at another banking provider (whom I'll call 'Bank B'). Mrs T provided her card details and security numbers for her Starling account and Bank B. As a result, Mrs T was tricked into authorising several card payments and she also made some faster payments to individual accounts – with Mrs T being told not to worry and that the money would be going to her account with Bank A.

The following payments were made from Mrs T's Starling account:

Date	Time	Type of payment	Amount
15 August 2023	10:48am	Faster payment – to beneficiary 1	£1,875.00
15 August 2023	11:02am	Card payment – to merchant 1	£2,000.00
15 August 2023	11:09am	Faster payment – beneficiary 1	£946.00
15 August 2023	11:11am	Card payment – to merchant 1	£2,000.00
15 August 2023	11:44am	Card payment – to merchant 1	£2,000.00
		<b>Total</b>	<b>£8,821.00</b>

Mrs T was told that she would receive a call back when everything had been 'put together'. After not receiving the call back, Mrs T thought to check with Bank A that it was their security team that had called her. That is when she discovered she had fallen victim to fraud.

Mrs T contacted all the banks involved, including Starling, to report the matter and to see if it could recover or reimburse her funds.

Starling considered Mrs T's claim. With the faster payments Mrs T had made, it considered the case under the Lending Standards Board 'Contingent Reimbursement Model' ("referred to as the CRM Code") which it is a signatory of.

The CRM Code requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. Starling investigated Mrs T's fraud claim and reimbursed Mrs T 50% of her losses on the faster payments (so £1,410.50 - which is 50% of £2,821.00).

Starling reimbursed 50% of the loss on the faster payments as it acknowledged that when Mrs T reported the matter, she informed Starling of both the card payments and the faster payments, but it didn't raise the claim with the faster payments straight away. It acknowledged that this caused a delay with its attempt to notify and recover any funds from the beneficiary bank of the account where the funds had been sent to. So Starling advised it hadn't met its standards under the CRM Code.

But it didn't agree that it was liable to reimburse Mrs T in full for the funds she had sent as it said one or more of the exceptions to reimbursement applied in this case. In summary this was because it didn't consider Mrs T had a reasonable basis of belief that the person she was transacting with was legitimate.

With the card payments, Starling advised that while they were authorised by Mrs T, the second and third card payments were not in line with her typical spending pattern and did appear highly unusual – so it considered that it should have intervened when Mrs T made the second card payment. As a result it refunded her, in full, for the second and third card payments which were both for £2,000. So in total it reimbursed her £4,000 (out of the £6,000) of the card payments made.

In total, Starling had reimbursed £5,410.50 (of Mrs T's overall loss of £8,821). Starling also offered Mrs T £100 for the level of service it provided.

Unhappy with Starling's response, Mrs T brought her complaint to this service.

One of our Investigator's looked into things and thought Starling had acted fairly in its answering of the complaint and it didn't need to reimburse Mrs T further or do any more.

With the faster payments Mrs T made, the Investigator considered Starling's offer to refund Mrs T 50% of those payments was fair as they considered that Mrs T should share some responsibility for her loss. They said this because they considered there was enough going on that ought to have given Mrs T cause for concern when making the transactions.

With the card payments, the Investigator explained that while the card payments aren't covered by the CRM Code (as the CRM Code covers faster payments made within the UK), Starling's offer to reimburse the final two card payments was fair. And they agreed with Starling's rationale for reimbursing the final two card payments. In essence they considered the first card payment wouldn't have caused a concern to Starling that Mrs T was at risk of financial harm, but it should have reasonably intervened on the following card payments. So they considered its offer to reimburse Mrs T for the final two card payments was fair.

Mrs T didn't agree with the Investigator's opinion and as the matter hasn't been resolved, 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.

First, to clarify, this decision focuses solely on the actions of Starling in relation to the payments made from that account. I note Mrs T made payments from her other banking providers – and if she is unhappy with any actions or inactions of those banking providers, she needs to raise that with those firms in the first instance.

I'm sorry to disappoint Mrs T, but I'm not upholding her complaint. I know she's been the victim of a cruel scam and I don't doubt that these events have had a significant impact on her. But I don't believe Starling has acted unfairly or unreasonably in its answering of the complaint. And I think its offer to refund Mrs T 50% of her losses from the faster payments is fair, and its offer to reimburse the second and third card payment in full is fair also. I also think its offer of £100 for the level of service Mrs T received is fair. I'll explain why.

#### *The faster payments*

Here, Mrs T is deemed as having authorised the payments that are the subject of this complaint, even though she did so as a result of being deceived by fraudsters. The payments were made by Mrs T through her banking app with Starling. Broadly speaking, under the account terms and conditions and the Payment Service Regulations 2017, she would normally be liable for them. But that isn't the end of the story.

Where a customer has been the victim of a scam it may be appropriate for the bank to reimburse the customer, even though payments have been properly authorised. Of particular relevance to the question of what is fair and reasonable in this case is the CRM Code.

The CRM Code requires Firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances. Under the CRM Code, a Sending Firm (in this case Starling) may choose not to reimburse a customer if it can establish that\*:

- The customer ignored what the CRM Code refers to as an “Effective Warning” by failing to take appropriate action in response to such an effective warning.
- The customer made payments without having a reasonable basis for believing that: the payee was the person the Customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.

*\*Further exceptions outlined in the CRM Code do not apply to this case.*

In this case, Starling accepted 50% liability of Mrs T's claim in relation to the faster payments. This was to acknowledge its failings in reporting the faster payments from the outset when Mrs T called and reported the matter - causing an unnecessary delay in logging the scam claim and notifying the beneficiary bank of where the funds had been sent to.

However, I think Starling has been able to establish that it may choose not to fully reimburse Mrs T under the terms of the CRM Code. I'm persuaded one of the listed exceptions to reimbursement under the provisions of the CRM Code applies.

Taking into account all of the circumstances of this case, including the characteristics and complexity of the scam, I think the concerns Starling has raised about the legitimacy of the transactions Mrs T made are enough to support its position that she didn't have a reasonable basis for believing the person or business with whom she transacted with was legitimate. I'll explain why.

In order to determine whether this exception to reimbursement applies, I must ask if she made the payments she did whilst having a reasonable basis for belief that all was genuine. I'm afraid I don't find that's the case having considered what happened here.

Mrs T was contacted by someone purporting to be from Bank A, and it seems that there was no number spoofing (which is where the incoming call is made to look as if it is coming from the genuine number of the bank in question). The call at 9:39am was shown as 'No Caller ID' and the other call shortly after was a mobile number that isn't in anyway affiliated with Bank A. The numbers also didn't match the telephone numbers from the day before. I also understand Mrs T hasn't advised that she was taken through any security process which you would typically expect when receiving a call from your bank. And Mrs T didn't seemingly question or verify that the caller was legitimate. So it seems Mrs T accepted what she was being told at face value.

I do accept that these types of scams are often successful as they work on a consumers fear of losing their own money and the pressure of having to act in a timely manner due to what they are being told about their account being at risk. So receiving a call from a mobile and being caught off guard in and of itself and in isolation may not demonstrate that a consumer doesn't have a reasonable basis of belief in believing things to be genuine. But I think there were further elements that, coupled with what I've said above about the contact Mrs T received, ought to have reasonably given Mrs T cause for concern about what she was being asked to do.

I note Mrs T had been contacted the day before – and she didn't seemingly question why, if her account was at risk, actions to prevent that risk and potential loss of money hadn't happened the day before – as opposed to arranging to speak at a later time and then with the follow up call coming the next day.

I am also mindful that it was Bank A contacting her, and Mrs T didn't question why Bank A would be asking if she had any other bank accounts and that they were at risk also – when Bank A aren't connected to Starling, and Mrs T hadn't received any contact from Starling about any potential risk to her account.

So here, Bank A didn't know about her account with Starling from the outset and then said or implied that it was at risk and to move funds from that account to another account (which wasn't with Bank A) with it then seemingly going back to Bank A. I think it would be reasonable here to query things and with Starling.

Mrs T was also seemingly directed to make a faster payment from her Starling account, which she did, and then to approve card payments (through her Starling app) also – which to my mind ought to have given Mrs T cause for concern. I do appreciate that things might have been happening at pace – but Starling has shown what its in-app approval process consists of. It shows what the initial notification consists of, and the step-by-step screens showing the information about the transaction and what is needed to approve the payment. Having reviewed this, on the balance of probabilities, I'm satisfied Mrs T would have likely seen that it was to approve a card payment and that she would have seen the amount and the merchant it was going to. While I appreciate Mrs T wanted to keep her money secure, authorising card payments to a merchant should have reasonably given her pause for thought and to question matters.

I have also given thought to Starling's comments that the faster payments made, were to an account that wasn't either Bank A, Bank B or Starling – and I agree that this should have also given Mrs T cause for concern as she was moving money in an attempt to keep it safe, but was paying another bank – and that it wasn't an account held directly with Bank A.

Starling has also provided evidence to show that when Mrs T made the first faster payment at 10:48am it asked Mrs T a series of questions about the payment. I suspect Mrs T was most likely being guided through the answers – based on the responses Mrs T input which advised that it was for friends and family and that they had paid them before and from a different bank account. Being told what to input, or not telling Starling the true reason for the payment purpose should have also given Mrs T cause for concern. Namely that an employee of Bank A was seeking to circumvent another banks security and warning systems.

Starling has provided its payment review – so the questions it asked Mrs T and the answers it received. I note that within the payment review Starling did advise at the outset:

*“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 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.”*

And after it asked a series of questions about the payment, its final message – prior to Mrs T having to tap to confirm the payment, advised:

*“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 on [159] (tel 159).*

*By tapping 'Make Payment', you agree that you understand this warning and would like to continue with this payment.”*

I think despite Mrs T's answers to the questions, around paying friends and family and having paid the person before, these two warnings provided during the payment review spoke to the scam Mrs T was falling victim to – and should have resonated with her and made her question what she was being asked to do by the scammer.

I'm mindful that, taking any of the individual factors above in isolation, they may not have been enough to have prevented Mrs T from proceeding to make the payments. But when taken collectively and considering the specific circumstances of this case and the factors in the round, on balance, I think that there was enough going on and sufficient red flags that Mrs T ought reasonably to have been concerned that things weren't as they first seemed.

Overall, I'm not persuaded that the payments were made with a reasonable basis for believing that they were in response to a genuine request from the bank. So, I think Starling can fairly rely on one of the exceptions to full reimbursement – that is that Mrs T made the payment without having a reasonable basis for believing that the person or business with whom they transacted was legitimate.

I have also considered whether Starling did all it could to try and recover the money Mrs T lost as a result of sending the faster payments. Starling acknowledged that it caused a delay here – which is why it reimbursed Mrs T 50% of her losses in relation to the faster payments. Starling ought to have acted sooner than it did, so it didn't meet the requirements of it set out under the CRM Code. The receiving bank (so the beneficiary bank the funds were sent to) did provide information to show that the funds were utilised and pretty much instantly – so despite Starling's failings to act in a timely manner, even if it had acted sooner (when Mrs T reported matters to Starling), no funds would've remained as they had already been withdrawn / moved on. So, its offer to reimburse 50% of the faster payments is fair here, and I don't direct it to do anything further in relation to the faster payments.

### The card payments

Card payments aren't covered by the CRM Code, as the CRM Code covers or provides protection in relation to faster payments within the UK and between UK domiciled accounts. That means the card payments Mrs T was duped into authorising aren't covered by the CRM Code.

But it is pleasing to see that Starling upon reviewing Mrs T's overall fraud claim, considered it should have picked up on the second card payment Mrs T made – as it acknowledged that, at that point, the spend became unusual. It has therefore offered to re-imburse Mrs T, and in full, for the second and third card payments. I agree with its stance here and I agree it's fair. I say this because it isn't uncommon for consumers to make a one-off card payment. With that in mind, I wouldn't have expected Starling to have been concerned Mrs T was at potential risk of financial harm at the point she made the first card payment, and not to an extent whereby I would expect it to intervene and question her further about the payment. So I'm satisfied its offer to reimburse Mrs T, and in full, for the second and third payment seems fair – especially when I take into account that Mrs T should reasonably bear some responsibility given the concerns that I consider should have been apparent to Mrs T at the time of making the payments.

I also don't think that Starling would have been able to recover the card payments for Mrs T through any other method such as a chargeback. There is no statutory right for a chargeback to be raised and a chargeback is not an absolute right for consumers. Here, the card payments went to a genuine merchant – who would have arguably provided its services – so the chargeback wouldn't have had any reasonable prospect of success and would most likely be defended by the merchant. I don't find Starling acted unfairly in not raising a chargeback as it had little prospect of success. So I don't find Starling could have reasonably done anything further to recover the loss in relation to the card payments through any other means.

I note Mrs T had a concern that there was a possibility that the payments could've been stopped as they were showing as pending. I can see why Mrs T may think this, but unfortunately as the payments had been authorised – they had in fact been processed (been 'pulled' through from the merchant) so while they were showing as pending – they had in fact been completed and couldn't be stopped.

Finally, I note that Starling offered and paid £100 to Mrs T for the level of service it provided. It acknowledged that it could have been clearer with Mrs T around the overall claim that was submitted to it and for the delay in reporting the faster payments. And that seems fair. I'm pleased to see it acknowledged its short comings and its award, and the amount, is in line with what I would expect to see, especially when I bear in mind that most of the distress and inconvenience was caused by the actions of the scammer. But Starling certainly could have been clearer in the steps Mrs T would need to undertake with it in having her claim assessed with different departments (for the card payments and faster payments) and it should have acted sooner in relation to logging the claim around the faster payments.

### Summary

With all of this in mind, while I am sorry that Mrs T fell victim to a cruel scam, I am satisfied Starling acted fairly in its answering of the complaint. In short, I consider it was fair for Starling to reimburse Mrs T 50% of her claim in relation to the faster payments under the CRM Code – due to its failure to act in a timely manner following notification of the fraud, but with Mrs T sharing some responsibility for the loss also. I also find Starling's offer to reimburse the second and third card payments, in full, to be fair and reasonable as I agree with Starling's stance that it could have intervened on the second card payment. And finally, I consider its offer of £100, for the level of service it provided, is fair.

### **My final decision**

For the above reasons, I don't uphold this complaint and I don't direct Starling Bank Limited to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T, on behalf of 'E', to accept or reject my decision before 26 December 2024.

Matthew Horner  
**Ombudsman**