

## The complaint

Ms P is unhappy that Starling Bank Limited (Starling) hasn't refunded the £6,873.95 she lost as the result of a job scam.

## What happened

Between 29 June 2023 and 3 July 2023, Ms P made six payments totalling £6,873.95 to a third-party who provided her with cryptocurrency via a peer-to-peer arrangement. From there the money was transferred to a job/work platform.

Date	Amount
29/6/23	£100
30/6/23	£1,927
2/7/23	£1,957
3/7/23	£1,314.95
3/7/23	£1,415
3/7/23	£160

Our investigator did not uphold the complaint. The second payment for £1,927 triggered a series of questions and Ms P chose paying a family member or friend that she'd met face to face and paid before as the payment reason. He felt by not selecting the most relevant answers, it closed off relevant lines of enquiries that could've uncovered the scam. The payments following this were to the same payee, so he considered they wouldn't have caused Starling concern.

Ms P did not agree. She didn't think the bank did enough given that she was open and forthcoming about sending the funds to cryptocurrency and the bank could see the money was going to cryptocurrency.

As the case could not be resolved informally, it's been passed to me for a 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.

I'm sorry to hear Ms P was the victim of a scam. I can understand why she wants to do all she can to recover the money she lost. But I can only direct Starling to refund Ms P's loss if it can fairly and reasonably be held responsible.

It is accepted that Ms P authorised the disputed payments from her Starling account. So, although she didn't intend the money to go to the scammers, under the Payment Services Regulations 2017 and the terms and conditions of her account, Ms P is presumed liable for her loss in the first instance. And under the terms and conditions of the account, where a valid payment instruction has been received Starling's obligation is to follow the instructions that she provides.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Starling to take additional steps or make additional checks before processing a payment in order to help protect its customer from the possibility of financial harm from fraud. An example of this would be if a payment instruction is sufficiently unusual or uncharacteristic for the usual use of the account. In such circumstances I'd expect Starling to intervene and ask more questions about the intended transaction before processing it.

Ms P's representative said that Ms P sent money to a well-known cryptocurrency provider. But that was not the case here. Although Ms P was buying cryptocurrency, Starling had no reason to know this because of the method used in this case - which was via a peer-to-peer arrangement. Because Ms P was purchasing the cryptocurrency via a peer-to-peer arrangement - the transfers appeared to be to a named individual. There was nothing to indicate to Starling why Ms P was making transfers.

There was little to no recent activity on Ms P's account in the months prior to the scam. I have thought about the amounts involved here and the pattern of the transactions. But the transactions were for relatively small amounts (I appreciate it was a lot of money to Ms P) and there was nothing obvious about them or the pattern of payments (including the final three made on 3 July 2023) that ought reasonably to have led Starling to have any concerns.

The first payment for £100 was to a new payee and the confirmation of payee resulted in a match. The amount was unremarkable so I wouldn't have expected Starling to do anything further. That said it did provide a generalised scam warning as part of the new payee set up which Ms P acknowledged and proceeded with the transaction.

The second transaction was larger, but I still don't think it would have looked obviously like fraud or a scam. That said, the payment did trigger on Starling's transaction monitoring system. Ms P was asked to complete a series of questions. But Ms P said she was paying a friend or family and that she had paid before and that she had met the person face to face.

Starling can only identify scam risks based on the information it receives. I think Ms P's answers made it very difficult to identify the specific scam Ms P fell victim to and given the assurances her responses gave – I think it made it harder to identify that Ms P was a risk of financial harm. Some warnings were given based on the types of scam risks Starling identified but I don't think Starling needed to do anything further here – such as intervene and probe any further.

Even when I consider the last three payments on the 3 July 2023, I still don't think the overall amount or pattern of payments was so suspicious that Starling needed to do anything more than it had already. And by this point it looked like the money was being transferred to the same established payee – who Ms P had confirmed was a friend who she had paid before and had met in person.

Ultimately, there's a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments. If all payments such as the ones Ms P made were stopped while further enquiries were made, many legitimate payments would be stopped which would cause significant disruption and delay.

Ms P has mentioned other decisions in support of her belief that Starling should refund her, but I'm required to consider the individual facts of this case and reach a decision based on those facts. Each case is judged on its own merits and what may appear (on the face of it) to be a similar set of circumstances, may often transpire not to be the case.

So, while I'm very sorry about Ms P's loss, I don't think it was caused by a failing on Starling's part.

### **My final decision**

My final decision is that I do not uphold this complaint.

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

Kathryn Milne  
**Ombudsman**