

The complaint

Mr W complains that Starling Bank Limited ('Starling') won't reimburse him in full after he fell victim to a scam.

What happened

What Mr W says

Mr W says he was buying an item online from a known retailer and input some information in a box that appeared. He says that he became concerned as things didn't look right, so he closed the box. Soon after, Mr W received a call from someone who said they were from Starling. Mr W didn't know at the time, but this person was a scammer.

The scammer told Mr W that someone was trying to take money out of his Starling account and that the best option to avoid this was to transfer money from his account bit by bit to avoid alerting the person who was trying to access his account. A new account would be set up for Mr W but in the meantime Mr W was given details of temporary accounts to send funds to. Each time Mr W made a transfer the scammer would check that the funds had been received and then instruct Mr W to make a further payment. Mr W was also asked to email the scammer his bank statement.

The scam continued over two days and Mr W's account was drained. I have set out in the table below the payments Mr W made on the instructions of the scammer and have also included declined and returned transactions to provide a complete picture.

Transaction	Date	Time	Amount	Recipient	Notes
	08/08/23	17:28	£1,695	Individual 1	Blocked
	08/08/23	17:37	£1,645	Individual 2	Returned
1	08/08/23	17:57	£3,995	Individual 3	
2	08/08/23	18:03	£3,850	Individual 3	
3	08/08/23	18:12	£4,100	Individual 4	
4	08/08/23	18:21	£4,090	Individual 4	
5	08/08/23	18:25	£5,875	Individual 5	
6	08/08/23	18:31	£2,000	Individual 5	
	08/08/23	18:38	£6,000	Individual 6	Returned
7	09/08/23	10:06	£3,980	Individual 7	
8	09/08/23	10:18	£5,750	Individual 8	
9	09/08/23	10:24	£5,699	Individual 8	
10	09/08/23	10:36	£5,999.99	Individual 9	
11	09/08/23	10:46	£3,800	Individual 9	

	09/08/23	10:52	£5,900	Individual 10	Declined
	09/08/23	10:56	£3,920	Individual 10	Declined
12	09/08/23	11:01	£3,800	Individual 11	
13	09/08/23	11:08	£3,750	Individual 11	
	09/08/23	11:16	£5,500	Individual 12	Declined
14	09/08/23	11:20	£5,500	Individual 13	
15	09/08/23	11:26	£4,000	Individual 13	
16	09/08/23	11:36	£4,000	Individual 14	
17	09/08/23	11:40	£1,181.34	Individual 14	

The scammer told Mr W that he would call back at an agreed time on 9 August 2023, but this didn't happen. Mr W called Starling himself later that day and a scam claim was raised.

What Starling says

Starling considered Mr W's claim under the Lending Standards Board's Contingent Reimbursement Model Code ('CRM Code') and reimbursed 50% of payment three in the table above onwards. From this point Starling said it should have done more to protect Mr W. Starling went on to say that Mr W didn't take enough care when making the payments.

Mr W was unhappy with Starling's response and brought a complaint to this service. He said Starling failed to protect him when the payments were made.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. He said that Starling could fairly rely on one of the exceptions to reimbursement under the CRM Code – that Mr W lacked a reasonable basis for believing that the call he received was from Starling. But the investigator agreed that Starling should have done more to protect Mr W from payment three, so should reimburse 50% of this and all subsequent payments. The investigator also noted that Starling had done what it could to recover Mr W's funds.

Mr W didn't agree with the investigator's findings and asked for a final decision, so his complaint has been passed to me. In summary, he said:

- He doesn't have experience of scams, technology or verifying legitimacy.
- The only time Starling asked him questions was when he called on 9 August 2023.
- If Starling has accepted liability from a certain point, he doesn't understand why he is only receiving 50% of his loss.
- He genuinely thought he was speaking to someone from his bank.
- He has lost his lifetime savings.

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 note that when Mr W spoke to Starling on 9 August 2023, he said the scam happened as I set out above. When he complained to this service, he said the transactions were unauthorised. I appreciate that Mr W didn't intend that his funds would end up in the hands of a scammer but am satisfied he authorised the transactions, so I am considering an authorised push payment (APP) scam.

When thinking about what is fair and reasonable in this case, I've considered whether Starling should have reimbursed Mr W under the provisions of the CRM Code and whether it ought to have done more to protect him from the possibility of financial harm from fraud.

There's no dispute here that Mr W was tricked into making the payments. But this isn't enough for him to receive a refund of the money under the CRM Code. Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that:

- 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.
- The customer ignored an 'effective warning' by failing to take appropriate steps in response to that warning.

There are further exceptions outlined in the CRM Code that do not apply to this case.

Did Mr W have a reasonable basis for belief?

I appreciate Mr W says that the scammer knew Mr W had provided details on a fake site and that the first three numbers of the Starling's phone number were used. He was also worried about the safety of his funds. But, overall, I don't think Mr W had a reasonable basis for believing that the scammer was from Starling or that he needed to transfer funds for the following reasons:

- The first three numbers of the scammer's phone number are very common (020), so I don't think there was enough to assume it was Starling calling.
- The scammer didn't go through any security questions to ensure he was speaking to Mr W as would be expected if Starling called.
- There is no suggestion that Mr W questioned why, if the caller was from Starling, they couldn't block his account to prevent any loss. I'm also not persuaded by the reason given to make multiple smaller payments (because if he moves the funds all at once the scammer might see).
- There was no evidence of unusual activity on Mr W's account.
- It's unclear how sending funds to multiple individuals made sense. Although some transactions were blocked, and some payments were returned, Mr W set up 14 new payees. I can't see that a plausible explanation was given for this.
- The scam spanned two days, so Mr W had the opportunity to reflect on what he had been told and complete some checks before making further payments. It also means that, based on what the scammer told Mr W, his funds were at risk overnight.
- Mr W was asked to send his bank statement to an email address provided by the scammer. The email address he was provided with was totally unrelated to Starling. And, if the caller was from Starling, they would have full access to Mr W's statements and would know his balance. So I think Mr W ought to have had concerns about what he was being told.
- As I will cover below, even though Mr W didn't choose the safe account payment reason, he was given relevant safe account scam advice, including that Starling would never ask him to move his money to keep it safe. Mr W received this warning multiple times. He was also told that if someone was telling him how to send the payments it was a scam.

It is the combination of these factors that lead me to believe Starling acted reasonably in relying on this exception to reimbursement.

Should Starling have provided effective warnings or intervened?

The CRM Code also sets out standards that firms are required to meet. Where these are not met, the firm may still be liable to reimburse a victim in part, even where it has been able to establish that an exception to full reimbursement can be fairly applied (as is the case here). If it fails to meet those standards in relation to a particular payment, or series of payments, and that failure would have had a material effect on preventing the scam then it may be responsible for partially reimbursing its customer.

Those requirements include the provision of what the Code defines as an “Effective Warning” when a firm identifies an APP scam risk in relation to a payment. The CRM Code requires that warnings be both specific to the scam risk identified and impactful – to positively affect a customer’s decision-making in such a way that the likelihood of an APP scam succeeding is reduced. The CRM Code goes on to say this should include steps to ensure that the customer can reasonably understand the consequences of continuing with an irrevocable payment.

Given the value of the payments and Mr W’s usual account activity I think Starling needed to provide an effective warning in respect of payment one. Starling asked Mr W to select a payment reason before processing this payment (and several others - payments 3, 5, 7, 8, 10, 12, 14, and 16). On each occasion Mr W chose ‘Paying a bill, event, taxes or for a service’ as the payment reason and not the safe account option – which was also available. Every time Mr W chose this payment reason, he was provided with a payment review screen that said:

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.

Mr W was then asked to confirm what the payment was for (‘Paying a bill, event, taxes or for a service’), what he was paying for (‘Services’), whether he’d received the service (‘Yes’), whether he’d paid the payee before and how he got the payment details (‘Face to face’).

Mr W was then asked to take a moment to think and was given the following advice,

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 [number].

I recognise that Mr W likely gave an incorrect payment reason after receiving advice from the scammer.

On balance, I think Starling Bank met its obligations under the CRM Code in this instance. It correctly identified a scam risk, and provided a warning based on the scam risk it identified. Unfortunately, the specific risk it identified was incorrect, but this was not due to errors on Starling’s side. Instead, this was in reaction to information provided by Mr W. Given the warnings provided by Starling, I’m also not persuaded that even if it had provided an effective written warning in relation to safe account scams Mr W would have seen and taken heed of it.

Payment two was to the same payee as payment one and Starling had already asked Mr W questions which had been answered satisfactorily. So I don’t consider Starling should have identified a scam risk or provided an Effective warning in respect of it.

So, under the CRM Code, Starling isn't liable for the first two transactions Mr W made.

But providing an Effective Warning in some circumstances is only one of the standards a firm must adhere to under the CRM Code. Under SF1(5) in some circumstances a firm is required to go further and, where it has concerns about a payment, it should intervene and take 'reasonable steps to communicate with the originating Customer'. I also consider it to be a matter of good practice for a firm like Starling to be on the lookout for out of character and unusual transactions to, among other things, try and prevent customers suffering financial harm from fraud.

I think there were reasons for Starling to be concerned by the time Mr W made payment three. He had made a series of unusual and, in my view, suspicious payments. The amounts were unusual, the payments were made in quick succession and Mr W paid multiple new payees. Mr W had also provided the same responses to Starling's payment review questions. So I agree that Starling needed to go further and that a proportionate response would have been human intervention, whether by way of more probing questions in its chat or by calling Mr W.

I consider that if Starling had explained to Mr W its concerns, the common features of a safe account scam, and reiterated that Starling would never ask him to move his money to a safe account, Mr W would have heeded the warning and not made further payments.

While Mr W chose an incorrect payment reason, I don't think it can be inferred that he'd mislead the bank about the purpose of the payment if appropriate probing questions were asked. It seems that Starling agrees, as it has reimbursed Mr W 50% of his loss from payment three onwards.

Assuming Mr W revealed even the most basic facts surrounding the payment he was trying to make, it would have been abundantly clear that he was falling victim to a safe account scam. I think Starling would have been in a position to provide a very strong warning. And, in the absence of evidence to the contrary, I think Mr W is unlikely to have gone ahead with the payment and the rest of his loss would have been prevented. So, I don't think Starling met its standards as a firm under SF1(5) and I think that failure is likely to have had a material effect on preventing the scam from that point onwards.

That means Starling should refund 50% of payment three and all subsequent payments. Starling has already refunded this amount so I can't reasonably ask it to do anything more.

Recovery

I've also considered Starling's attempts to recover Mr W's funds. I can see that Starling contacted each of the receiving banks soon after the scam was reported as I'd expect it to, but it has been unable to retrieve any funds. In the circumstances, I can't say Starling has done anything wrong.

Overall, while I'm very sorry to hear about the loss of Mr W's savings, I'm satisfied Starling has acted fairly in reimbursing 50% of payment three and all subsequent payments, so I'm not asking it to do anything more.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 January 2025.

Jay Hadfield
Ombudsman