

## **The complaint**

Mrs B complains that Starling Bank Limited won't refund the money she lost after falling victim to a scam.

## **What happened**

Mrs B fell victim to a safe account scam. After her details were compromised via a phishing text, Mrs B was contacted by an individual claiming to be from Starling.

Mrs B says she was told that her accounts with Starling and with other banks were at risk and that she needed to move her money to a new 'safe' account that was being set up for her. Unfortunately, and unknown to her at the time, Mrs B was actually speaking with fraudsters.

Believing that she was genuinely dealing with Starling, Mrs B ended up making 13 payments out of her Starling account in around two hours. Most of these payments were card payments to various companies, Mrs B says she was told these recipients had been randomly generated to disguise where her money was going. The last payment was a transfer to Mrs B's own Santander account.

Mrs B realised she had been the victim of a scam when she was disconnected from her call with the scammer and made contact with the real Starling. Starling logged the fraud and, because it had been made aware of the scam so quickly, and had already flagged some of the payments for further checks, was able to stop some of the card payments Mrs B had made to the scam.

On reviewing what had happened, Starling felt that by the time of the fourth payment Mrs B had made to the scam it should have identified that Mrs B was potentially at risk of financial harm and so should have stepped in to see what was going on. As a result, Starling said it would refund any outstanding losses from that point onwards. The fourth payment had already been refunded by the merchant, so Starling refunded the remaining outstanding payments from that point onwards.

Mrs B remained unhappy, she felt that Starling should also refund the first three payments she made to the scam, so she referred the matter to our service. One of our Investigators looked into the complaint, but they were satisfied that Starling had taken reasonable steps to resolve Mrs B's complaint and that it would not be fair to hold it liable for the first three payments to the scam.

Mrs B disagreed with the investigator's opinion, so as no agreement could be reached this case has now 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.

Having done so, I've reached the same overall outcome as the investigator, I'll explain why.

It's not disputed that Mrs B authorised the payments that are the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mrs B is responsible for them. That remains the case even though she was the unfortunate victim of a scam.

Because of this, Mrs B is not automatically entitled to a refund. But 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.

Taking the above into consideration, I need to decide whether Starling acted fairly and reasonably in its dealings with Mrs B, or whether it should have done more than it did.

Starling actually did identify the account activity as concerning at a later stage in the scam, as it flagged payments for further checks from around the eighth attempted payment. And it has now agreed that it should have stepped in earlier, at the time of the fourth payment. But I've considered whether it should have taken this action sooner.

I do appreciate that the three initial payments were going to a merchant Mrs B hadn't paid before. And they were made in quick succession. On the other hand, they were also being sent to a legitimate merchant, and one that is not obviously associated with scams. And the approval process required for card payments would have given some reassurance to Starling that Mrs B was likely making the payments herself.

Starling's primary duty under the PSRs is to process authorised payment instructions without undue delay. Thinking about the value and volume of payments banks like Starling process, there is a balance to be struck between reacting to indicators of fraud, and ensuring minimal disruption to legitimate payments.

Overall, while I appreciate the initial payments were arguably large for Mrs B in the context of her account usage, I'm not persuaded they were so significantly risky, thinking about the overall amount sent at that point and the apparent destination of the funds, that it was reasonable to expect Starling to intervene before the fourth payment. I therefore don't think it's fair to hold Starling at fault for not preventing the payments.

I agree with the investigator that Starling likely couldn't have recovered the funds either. As they were made by card, they fall under the scope of the voluntary chargeback scheme. But there are limited grounds to raise a successful claim, and I don't think they apply here. The payments were authenticated. And the dispute ultimately wasn't against the merchant paid directly – which is what a chargeback would consider – but the scammer.

I appreciate this will be disappointing for Mrs B, who has clearly lost out to a cruel and sophisticated scam. But my role is to look at Starling's liability for what happened, bearing in mind it wasn't the bank who perpetrated the scam. And having carefully considered what's happened here, I'm not persuaded it would be fair to direct Starling to reimburse Mrs B for her outstanding loss.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 15 August 2024.

Sophie Mitchell  
**Ombudsman**