

The complaint

Mr S is unhappy that Starling Bank Limited decided not to refund him after he was the victim of a scam.

What happened

Mr S received a text message from a new number, saying it was his son, who was having phone problems. Mr S says he'd spoken to his son a few days before, who'd mentioned issues with his phone, so this text didn't seem out of the blue. But Mr S had in fact, been contacted by scammers.

The scammers pretending to be his son, asked for money. Although Mr S says he was initially suspicious, he asked some questions and received credible responses before deciding to make the payment to the third-party account as directed. During the payment process with Starling, Mr S answered a number of questions and received some warnings.

Starling initially presented a new payee warning which also covered safe account style scams and warned about being guided through the questions. It also asked a series of questions designed to better help it identify what risk or scam Mr S might be falling victim to and therefore present the most relevant warning it could, Mr S was asked the following questions and provided the following answers

- what the payment was for
 - o *Investments*
- What are you investing in?
 - o *Family member or friends saving account*
- Have you ever met this person face to face
 - o *Yes*
- Have you paid this person before
 - o *Yes*
- When you paid them before, did they confirm they received the money from you?
 - o *Yes*
- Have they asked you to send them this money unexpectedly
 - o *No*
- Have you been asked to make this payment because of a problem, emergency or last-minute change of details?
 - o *No*

Starling then presented Mr S with a warning about safe account scams, and fraudsters calling to appear from different numbers.

Starling, as a signatory of the Lending Standards Board Contingent Reimbursement Model (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. Starling says one or more of those exceptions applies in this case. It said it had fraud prevention measures in place and Mr S did not verify the legitimacy of the payment before making it.

One of our investigators looked into things. She concluded that Starling ought to refund Mr S 50% of his losses under the CRM code. Plus 8% simple interest from the date Starling declined Mr S's claim.

She said whilst Starling asked a series of online questions which related to the type of scam he was experiencing; it didn't provide an effective warning. His answers, although not truthful, still indicated he was at risk and Starling should have provided an effective warning relevant to that risk.

Starling didn't need to do more than provide a warning, as the payment wasn't so out of character, that it warranted further intervention beyond this.

Starling ought to have contacted the receiving bank more quickly to enquire whether any funds remained following the report of the scam. She was still awaiting a response from the receiving bank at the time of issuing her view to see if this made any difference to the outcome.

She said Mr S didn't have a reasonable basis of belief when making the payments. So Starling was entitled to rely on the exception to full reimbursement under the code. The investigator said, within the messages with the scammer, Mr S raised concerns several times, that he thought it might be a scam. He asked the scammer to prove their identity. The scammer was unable to answer these questions, but Mr S continued with the payment, nonetheless.

Mr S accepted the outcome. Starling responded to say it disagreed.

Starling said it asked Mr S seven questions and due to his misleading answers, it couldn't have done anything further. Mr S significantly misrepresented the situation making it impossible for Starling to provide warnings relating to the real position or to conduct any manual intervention.

The investigator considered these further points, but said Mr S's answers, in the main weren't incorrect, they could be interpreted as reflecting the reality of his situation. She agreed that for the last two questions he didn't provide truthful answers. But she still felt that Starling had missed an opportunity to provide an effective warning based on the answers he gave and the payment Mr S was making.

Starling disagreed again saying Mr S misrepresented the situation with regard to every question that it asked.

Starling asked for an ombudsman to review the complaint.

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.

As I've mentioned, Starling is a signatory of the Lending Standards Board Contingent Reimbursement Model (the CRM Code) which requires firms to reimburse customers who have been the victims of APP scams, in all but a limited number of circumstances and it is for Starling to establish that a customer failed to meet one of the listed exceptions set out in the CRM Code.

Under the CRM Code, a bank 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.

Did Starling meet the standards expected of a firm under the CRM Code?

The CRM code says that, where a firm identifies APP scam risks, it should provide "Effective Warnings" to their customers. It sets out that an Effective Warning should enable a customer to understand what actions they need to take to address a risk and the consequences of not doing so. And it says that, as a minimum, an Effective Warning should be understandable, clear, impactful, timely and specific.

It isn't in dispute that an APP scam risk was identified here, given that Starling required Mr S to disclose the reason for the payment and ask a series of questions. And Starling went on to provide a scam warning. Mr S selected "investments" and "paying friends and family savings account". He then went on to answer further questions all of which are set out in the background to the complaint.

Starling presented a warning about safe account scams, rather than the particular scam he was falling victim to. Specifically, Mr S mentioned both an "investment" and "family member or friends savings account". Despite the other answers Mr S gave I'm satisfied it would have been appropriate for Starling to have provided warnings on both investment scams and friend and family scams, but here it provided neither.

The safe account warning scam was irrelevant to the risk Mr S's payment represented so I'm satisfied it wasn't an effective warning.

Starling has said that it was prevented from providing an effective warning because of the answers Mr S gave to the questions it asked. Whilst I agree that Mr S wasn't truthful in all of his answers, I agree with the investigator that Starling knew enough about what Mr S was doing to have provided the specific warnings I've mentioned above.

Although not presented to Mr S, I have seen Starling's friends and family warning and I'm not satisfied that it meets the requirement of an effective warning. Its limited in its description and doesn't bring to life how scammers can prey on existing relationships as part of an impersonation scam, to persuade someone they need to make a payment on their behalf. Or that these are common scams and there is a need to verify the person who is making the contact. If a warning with those aspects had been presented to Mr S, given his already apparent doubts then, in all likelihood, I'm persuaded it would have had a material impact on Mr S's decision to proceed with the payment.

Mr S wasn't being assisted when making the payments or guided on which options to select. And he had already questioned the legitimacy of the contact. It seems likely that with a warning about these types of scams and the steps Mr S could have taken to protect himself he would have in all likelihood been more confident that he needed to question the validity of the contact before making the payment.

Overall, I'm satisfied that Starling ought to have provided a different warning – which includes the friends and family scam warning. It didn't do this. And even if Starling had presented its friends and family warning had I'm satisfied that it is not an effective warning for the purposes of the CRM code. And so Starling has failed to meet the firms standards under the CRM code. As such, I agree with the investigators finding that Starling is liable to refund Mr S 50% of his losses, plus interest.

Did Mr S have a reasonable basis of belief when making the payment?

I've also thought about the steps Mr S took to reassure himself about the legitimacy of the contact he'd received and whether it was reasonable for him to proceed with the payment. Having done so, I am not persuaded that he had a reasonable basis for believing that the payee was the person he was expecting to pay, the payment was for genuine goods or services and the person he transacted with were legitimate.

This is not a finding I have made lightly, and I have considered that the scammer preyed on the trust relationship between child and parent and pressure to act quickly. But I have seen from the messages that Mr S very reasonably had doubts about the contact and whether it was in fact a scam. He expressed his doubts multiple times throughout the course of the conversation with the scammer and prudently asked questions to identify if it was in fact his son who he was communicating with. But the scammer didn't answer those questions and continued to request that Mr S make the payment without providing any reassurances that he was seeking. And so unfortunately, I don't think Mr S proceeded with the reasonable basis of belief that he was in fact making a payment to help his son.

Mr S has accepted this finding from the investigator and has agreed to the 50% refund she recommended.

I am of the same opinion that Mr S should therefore receive a 50% refund in these circumstances

Putting things right

I direct Starling to pay Mr S 50% of his losses totalling £1,550.16

Add 8% simple interest from the date Starling declined the claim to the date of settlement.

My final decision

I uphold this complaint in part as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 25 July 2024.

Sophia Smith
Ombudsman