

The complaint

Mr W complains that Starling Bank Limited hasn't refunded him after he fell victim to what's commonly known as a safe account scam.

What happened

Mr W received a call from an unknown number. It displayed as 'no caller ID' on his phone. The caller claimed to be from Starling's fraud department but they were in fact a scammer.

The scammer told Mr W that someone was attempting to make transactions against his account. Mr W could see no trace of these against his account.

At one point the call dropped out, but the scammer quickly called back and resumed the conversation. The scammer applied pressure to Mr W by saying that if he ended the call and phoned back he'd lose FSCS protection.

Mr W had doubts he was speaking to a genuine member of Starling staff and so he started a live chat in the bank's app. He asked that Starling confirm it was them he was on the phone with. Whilst waiting for a response, Mr W received a notification of a payment made to a food delivery service. Mr W knew he hadn't made or otherwise authorised this transaction.

Starling responded to Mr W's chat request and asked for some more details.

Mr W continued to discuss the situation with the scammer. He was told he needed to move his money to protect it, by sending it to a safe account in stages. The scammer gave him the details of an account held with a different bank. The scammer said the recipient bank was a part of Starling, though Mr W has said he'd never heard of it. Mr W proceeded to make two payments – of £989 (at 13:25) and £1,340 (at 13:34) – to the details he was given.

Between the two payments Mr W contacted Starling, again using the chat function, to ask if the fraud department would ask him to move money. A couple of minutes later the agent responded to say it would only advise to move money if the account was to be closed. Mr W then asked if Starling would phone him with a 'no caller ID', but by this time he'd already sent both payments, which he revealed to the agent. It was at this point the scam was fully revealed to Mr W. He called Starling to report what had happened.

I've included below a brief timeline of the key events, for clarity.

- 12:46 – Mr W is called by the scammer
- 12:57 – Mr W starts a live chat with Starling
- 13:14 – the call with the scammer drops and they call back right away
- 13:19 – Starling agent joins the chat
- 13:21 – The agent asks if it was the caller that contacted Mr W
- 13:22 – Mr W confirms they called him
- 13:22 – The agent asks some questions of Mr W
- 13:31 – the chat becomes idle due to no response from Mr W
- 13:32 – Mr W rejoins the chat to ask if Starling would ask him to move money

- 13:34 – The agent confirms Starling wouldn't ask him to do so unless he'd been told his account was being closed
- 13:36 – Mr W asks the agent to confirm that if he had a call from a no caller ID it wouldn't be Starling

Starling considered whether it should reimburse Mr W, taking account of the Contingent Reimbursement Model (CRM) Code. But it said Mr W didn't have a reasonable basis for believing he was dealing with a genuine member of Starling staff. It noted he'd clearly had doubts about the phone call but had proceeded with payment before it could help. And it said the payee name and the fact the account was held with a different bank ought to have caused alarm.

Mr W was unhappy with Starling's response and so brought his complaint to our service. One of our investigators reviewed the evidence and information and didn't recommend that the complaint be upheld. He felt Starling's approach and response to the complaint had been fair and reasonable.

The complaint has been passed to me for a final decision as Mr W didn't accept our investigator's findings.

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 disappoint Mr W, but I'm not upholding his complaint. My reasons are broadly the same as those of our investigator.

Generally speaking, the starting point at law is that Mr W is responsible for transactions made from his account which are properly authorised. This position is set out in the Payment Service Regulations (2017) and confirmed in Mr W's account terms and conditions. There's no dispute that Mr W authorised the payments, even though he did so as part of a scam.

Starling is a signatory to the Lending Standards Board's CRM Code. This looks to protect customers from scams and to see them reimbursed in many circumstances. But there are exceptions to reimbursement that a signatory firm – here Starling – might rely on to decline a refund. Starling's position is that one or more exceptions to reimbursement apply here.

The relevant exceptions can be set out in the form of two questions, which I'll go on to address in turn:

- Did Mr W ignore effective warnings presented by Starling at the point he was making the payments?
- Did Mr W have a reasonable basis for believing he was dealing with legitimate parties for legitimate purposes?

Did Mr W ignore effective warnings presented by Starling at the point he was making the payments?

Starling is required to present effective warnings when it detects a scam risk. And those warnings need to meet the criteria set out in the CRM Code. But they don't need to be presented for each and every payment.

Starling did present warnings to Mr W here. Some weren't particularly relevant to him, but that's because he selected his payment purpose as 'paying an invoice'. But there were some parts of the warnings he was given that directly related to safe account scams.

I'm not going on to make an assessment of whether the warnings were effective as per the definitions set out in the Code. That's because I find Starling's response to the potential

scam risk was proportionate, in that it didn't need to deliver warnings that met all of the CRM Code's criteria.

My reason for saying as much is that the payments – both individually and cumulatively – didn't represent an obvious scam risk. The values were relatively low and not so far outside of Mr W's normal account activity that they can be described as unusual. And there aren't any other features of the payments that lead me to believe Starling needed to do more than it did in terms of warnings given.

Did Mr W have a reasonable basis for believing he was dealing with legitimate parties for legitimate purposes?

Mr W received a call out of the blue from a 'no caller ID'. The caller claimed to be from Starling, and it seems Mr W immediately questioned the legitimacy of the call. From what he's said, it doesn't appear as though the scammer knew details about him but did ask him to answer some security questions.

Mr W was so concerned that he started a live chat with Starling and his doubts as to the legitimacy of the call are evident from the questions he asked. It is true that Mr W didn't get an immediate response from Starling. But the conversation was started and was underway before he made the first payment. And so, I do find it would have been reasonable for him to wait for a response before proceeding. In saying that I've considered that he was under pressure to act. But I don't believe the response times were so unreasonable that they alter the outcome of the complaint.

Even after the first payment was made, it's apparent Mr W still wasn't convinced he was doing the right thing. This is again evidenced by the ongoing chat with the Starling agent.

Mr W was highlighting other alarming features of the scam, including the no caller ID and the need to transfer to a safe account. From what Mr W has said, he was also concerned about the external account he was due to pay, in terms of both the payee name he was given and the fact it was held with a bank he'd never heard of. But he doesn't appear to have taken the time to check these details further, either himself or by waiting for Starling to respond in the chat. When creating the payee, Mr W received confirmation that the account was held outside of Starling and that it was a personal account. Mr W has said, when questioned about the account name he'd been given, the scammer told him the payee name wasn't actually a name but a code to keep the account protected. But I'm not persuaded that was a reasonable explanation in the circumstances, particularly considering everything else that was going on and the other warning signs present.

Mr W's ongoing sense of doubt as the scam proceeded is again evidenced by the chat. He appears to have remained unconvinced right up to the point of, and just after, sending the second payment. And so, with all of that in mind, I can't say he held a reasonable basis for believing he was dealing with legitimate parties for legitimate parties at the point he made the payments.

I've taken account of the content of the warnings Mr W was given too. I've already explained I'm not considering them from an effective warnings perspective. But, given their content, I'm persuaded they ought fairly and reasonably to have resonated with Mr W to a degree. And, considering the other elements and features of the scam, I'm satisfied they do affect the reasonable basis for belief argument.

I have considered the fact that there was an unauthorised transaction in the middle of the scam. It seems more likely than not this was engineered by the scammer, though it's unclear how Mr W's card details were obtained. And I can see how the transaction would have made him concerned about the overall safety of his account and money. But I don't consider this element outweighs all the other circumstances I've discussed here in establishing a reasonable basis for belief. And, as already explained, it was apparent that Mr W's significant doubts remained even after the unauthorised transaction.

Did Starling make reasonable attempts to recover Mr W's money?

I can see Starling did move quickly to try and recover Mr W's funds. It contacted the recipient bank swiftly but, unfortunately, Mr W's money had already been moved on. It was then irrecoverable. And so Starling had done all it could.

Conclusions

I'm sorry to disappoint Mr W but, for all the reasons I've set out above, I can't say Starling has acted unfairly or unreasonably in not refunding his loss.

My final decision

I don't uphold this complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 June 2024.

Ben Murray
Ombudsman