

The complaint

Ms W, on behalf of her business “F”, has complained that Starling Bank Limited (“Starling”) failed to protect her from falling victim to an impersonation scam.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Although Ms W’s complaint relates to F’s business account, I’ll refer directly to Ms W throughout my decision as she’s raised the complaint.

Ms W has explained that on 17 February 2024 she opened an email which appeared to be from the website provider for her sole trade business, which requested payment for the renewal of her website. Ms W says the email was sent to her business email address and the payment request appeared legitimate. Ms W decided to make the payment of around €12 using a link contained within the email. Ms W has described how during the payment process, which she was attempting to make using her debit card, a pop-up from Starling appeared on her mobile phone asking her to authorise the transaction. She confirmed, but she’s explained how at that moment the amount changed unexpectedly to £1369.43, with the payee listed as “Paydunya.” This is when Ms W realised she’d been scammed, and she immediately called Starling to report it.

As Ms W was speaking with a representative at Starling another payment request for over £600 appeared on her phone. She rejected that payment, but she was told by Starling that the first payment was still pending and couldn’t be stopped. The representative Told Ms W to wait for the payment to go through and then raise a complaint. On 19 February 2024, when the payment left her account, Ms W spoke with another Starling representative. She told Ms W that she had been given incorrect advice from the previous member of staff and assured her that a complaint would be raised. Ms W submitted evidence to support her case, including images of the email, which by that point her email provider had flagged as potentially a scam – although she’s said it wasn’t flagged as such at the time she clicked the link.

Ms W has described how she felt hopeful that Starling would honour the Contingent Reimbursement Model (CRM) and refund the money she lost. But around two weeks later Ms W’s transaction dispute was rejected on the basis of a “lack of due diligence.” It did however uphold her complaint as it said it didn’t follow the correct process when she called it on 17 February 2024. It said it should’ve completed a claim form for her at that time, although whilst it acknowledged this was inconvenient, it explained this wouldn’t have changed the outcome of the dispute itself. Starling paid Ms W £30 in compensation to recognise this failing.

As she remained unhappy Ms W referred her complaint to this service. She disputes Starling’s claim of a lack of due diligence because she believes that she acted swiftly and appropriately once she recognised the scam, especially considering that the email appeared

to come from a professional source that she already had a relationship with. She also highlighted the fact that the payment request was for a small amount that she was expecting to pay.

Our investigator considered everything and didn't think the complaint should be upheld. He explained that he didn't think Starling ought to have intervened before Ms W made the payment, as he didn't think it would've appeared sufficiently suspicious for Starling to have grounds to do so. He also explained that neither Ms W or Starling are to blame for the unfortunate situation Ms W has found herself in, as the main perpetrator in this situation is the scammer.

As Ms W didn't accept the investigator's opinion, the case has been passed to me to make 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 disappoint Ms W but having considered everything I'm afraid I'm not upholding her complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Ms W authorised these payments from leaving her account. It's accepted by all parties that Ms W gave the instructions to Starling and Starling made the payments in line with those instructions, and in line with the terms and conditions of Ms W's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

I've firstly considered Ms W's request for Starling to refund the fraudulent payment under the Contingent Reimbursement Model ("CRM") Code. The CRM Code only applies to scams involving Authorised Push Payment ("APP") transactions, which are generally electronic transfers. As this payment was made using Ms W's debit card, the CRM Code doesn't apply here.

I've thought very carefully about what's happened and whilst I know this'll be disappointing for Ms W, I don't think Starling has acted unfairly by not refunding the money she lost as part of this scam. I do want to emphasise that I am in no way intending to downplay the impact of the situation, or pass the blame to Ms W, but in order to uphold the complaint I'd need to be satisfied that Ms W's loss was the result of something that Starling did incorrectly, or that it didn't do something when it ought to have.

I've firstly considered whether Starling was right to allow the payment to be made without asking Ms W any further questions about it or verifying it further. Having done so, I'm satisfied that Starling allowed the payment to be made after it had been authorised by Ms W, without further intervention. I recognise the payment was higher than previous payments Ms W had made, but it wasn't so large that it ought to have flagged as a concern to Starling. In addition, although the merchant isn't the one Ms W intended to pay, it's a legitimate merchant and I'm not aware of any warnings about it that Starling ought to have been aware

of. So I think the pop-up authentication method alone was a sufficient way for Starling to verify the legitimacy of the payment before it was made.

Turning to the dispute itself, whilst I know it was unintentional, the fact remains that Ms W authorised the larger payment to the scammer by approving it using the pop-up message on her mobile phone, albeit in error. I do take Ms W's point that this changed at the last minute, as she says it initially showed the smaller payment that she expected to pay, but the fact this isn't Ms W's fault doesn't automatically mean the blame falls to Starling. From everything I've seen and been told there's nothing to suggest this was an error on Starling's part.

I understand Ms W's point that she gave Starling the opportunity to freeze or cancel the payment within minutes of authorising it, as soon as she recognised the scam. But Starling wasn't wrong to say it wasn't able to do that. Once authorised, debit card payments are guaranteed to merchants, to avoid scenarios where legitimate payments are cancelled by customers resulting in a loss to the retailer. Whilst I know that's not the case here, that's the way that debit card payments work so Starling wouldn't have been able to freeze the payment after Ms W had authorised it.

In relation to the £30 Starling paid Ms W for the incorrect information it gave her, having considered the circumstances, I'm satisfied that was fair. Whilst having to call Starling a second time undoubtedly added further inconvenience at an already stressful time, the fact that Starling told Ms W it could only log the dispute once the amount had fully debited her account didn't change the outcome. The payment was authorised and the amount would therefore have debited Ms W's account, regardless of when it was disputed. So I think the £30 fairly reflects the inconvenience caused to Ms W by having to call Starling for a second time to log the dispute that she should've been able to log during the initial call.

Recovery of the funds

As the payment was made using Ms W's debit card, the chargeback process is relevant here. In simple terms a chargeback is a mechanism for a consumer, via their card provider, to reclaim money from a retailer's bank when something has gone wrong, provided the transaction meets the eligibility criteria. It's for the card provider to decide whether to raise a chargeback, and it only needs to do so if it has a reasonable prospect of success.

It's also relevant to note that raising a chargeback isn't a legal right, and it's for the debit or credit card provider to decide whether to make a chargeback request to the retailer's bank. The process for managing these claims is determined by a set of rules by the card payment networks and there are no guarantees the card provider will be able to recover the money through the chargeback process.

In order for Starling to raise a successful chargeback it'd need to provide evidence that the merchant didn't provide the goods or services that Ms W paid for, or that the merchant had done something else wrong from a defined list of criteria. Although I understand Ms W used her debit card to pay a merchant she didn't expect to pay, there's no evidence the merchant didn't fulfil its obligation to provide the service that Ms W paid for. So the dispute doesn't lie between Ms W and the merchant, but instead Ms W and the scammer. With this in mind there wasn't a reasonable prospect of a chargeback claim being successful, so I don't think that was a route that Starling ought to have pursued.

I'm very sorry that Ms W has fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold Starling responsible for that.

My final decision

I don't uphold Ms W's complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 20 February 2025.

Sam Wade
Ombudsman