

The complaint

Mr and Mrs S complain that Starling Bank didn't do enough to prevent the loss they suffered when they fell victim to a scam.

For ease of reading and as he's done most of the correspondence on the complaint, I'll mostly just refer to Mr S where I mean both him and Mrs S.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview here.

In May 2024 Mr S fell victim to a 'bank impersonation' / 'safe account' scam. He says he received a call from someone who, at the time, he believed was calling from his bank – 'C'. He was told his account had been compromised and to protect his funds, he needed to move them to a 'safe' holding account. Through different banks, Mr S made payments totalling just under £34,000 as a result of the scam. Relevant to this complaint are five debit card payments totalling just under £10,000 which were made from his (joint) Starling account.

Mr S reported the matter to Starling, who went on to investigate Mr S' claim. It didn't refund the first payment of £1,901.90 but did the remaining four. Mr S complained. Starling maintained its position in relation to the scam claim, but it paid a £300 compensatory award in recognition of the poor service it had provided, and its failure to support Mr S at what was already a difficult time for him.

Mr S remained unhappy, he referred his complaint to our service. Our Investigator ultimately didn't recommend that the complaint should be upheld or that Starling needed to do more. Mr S strongly disagreed and asked for an Ombudsman to review his 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.

Having done so, I've reached the same outcome as the Investigator, in so much as, I can't uphold Mr S' complaint. I know this will be disappointing for Mr S, so I'll explain why.

Firstly, there is never an easy way to deliver news that may not be welcomed or expected, and inevitably the nature of my role is such that I will disappoint one party. So I do understand Mr S' disappointment and how this might lead him to conclude that our service is on the side of the banks and not doing enough to help victims. But I'd like to assure Mr S that I have, as my role requires me to, considered this matter independently and impartially taking into account the evidence provided by both parties before reaching a determination about this complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case.

It is accepted Mr S was aware and agreed (albeit he was tricked into doing so) to the disputed payments being made from his Starling account. However, Mr S thinks these should be treated as 'authorised push payments' (APP) not as card payments, which are generally considered 'pull payments'.

Mr S says, "From my viewpoint, they were push payments. The scammer pushed a payment demand into my Starling app, and I clicked on it. At the time, I had no idea what Remitly was; I thought it was just a way of putting funds in a holding account until the problem with my account was resolved. Needless to say, at the time, I had no idea of the loss of fraud protection caused by your illogical rules about the difference between BACS and Card payments."

I think it would be helpful for me to explain that a 'push payment' is a method of payment where the payer instructs money to be sent to a payee. The payer is in control of the payment and is explicitly instructing money to be sent to somewhere. A 'pull payment' is a method of payment where the payee requests the money to be sent. The payee is in control of the payment and is explicitly requesting the money to be sent from somewhere. Here, the payer must authorise the money to be taken. So the action Mr S describes of clicking in his app was him providing authority for a payment which had been requested by the payee (here Remitly) not one which he'd asked Starling to make for example by providing them with payee details and arranging for the payment to be made. I appreciate Mr S says he wasn't aware at the time of the differences in rules which apply to different payment channels and the protection that is available, but this doesn't factually change how these payments were made, or how they ought to be treated. Here Starling have evidenced the transactions were initiated by the payee (here Remitly) via the card payment channel. These were approved by Mr S through his app. So whilst I appreciate Mr S is of a different opinion, I'm satisfied that these were card payments that were 'pull', not 'push', payments.

Mr S says there were five fraudulent transactions, four of which were refunded by Starling (payments two to five). He does not see the logic of refunding only four, as he was equally tricked for all five of them. He says there was no unique circumstance to justify the non-refunded £1,901.90, so he questions why five out of five weren't refunded?

Firstly, the test for whether Starling ought to have refunded the disputed transactions isn't simply down to whether Mr S has been the victim of a scam. Under the relevant regulations, that being the Payment Services Regulations 2017 (PSRs 2017), the disputed payments are considered 'authorised transactions'. Therefore, the starting position is that liability for them rests with Mr S, even though he was tricked into making them. But that isn't the end of the story, Starling should also fairly and reasonably have been on the lookout for transactions which are suspicious, unusual or out of character – that could involve fraud or be the result of a scam. This being the basis under which Starling agreed to, and have, refunded payments two to five. It didn't think it was liable for the loss of the first payment made as a result of the scam. So the matter which remains for me to decide is whether I can fairly and reasonably ask Starling to refund this.

To reiterate in circumstances such as these where debit card payments were authorised by the cardholder, being the victim of a scam, doesn't automatically entitle them to a refund from their bank. It would only be fair for me to tell Starling to reimburse Mr S' loss (or part of it) if I thought it reasonably ought to have prevented all, or some, of it, or if it had unreasonably hindered the possible recovery of funds after Mr S had notified it that he'd been the victim of a scam.

Of course, in hindsight and now knowing the payments were made as a result of a scam it's easy to say Starling ought to have intervened and done more and that it missed an opportunity to prevent Mr S' loss. But taking into account the volume of transactions that take place daily, it simply wouldn't be practical for a bank to stop and check each and every one of those payments – especially if it's not suspicious or unusual in the context of the typical account activity. It has to strike a balance between monitoring accounts and trying to prevent fraud without unduly hindering its customer's use of their accounts.

From what I've seen there was no interaction between Starling and Mr S (other than him authorising the payment through his app). So the question really is whether Starling ought to have done more before it processed the first scam related payment leaving Mr S' account. With the above in mind I agree with the Investigator that in the context of Mr S' normal spending and prior account usage, I'm satisfied here, that it wouldn't be fair to say that the amount and/or type of payment (including the merchant the payment was made to) should have appeared sufficiently unusual or suspicious to Starling such that it ought to have questioned and provided warnings to Mr S before processing the payment.

I have considered Mr S' point that the first payment was the largest of the five (albeit only by £4) but this doesn't change my mind. Having looked through Mr S' bank statements for the six months leading up to the scam, I can see that he has made payments for similar, and even larger sums than the first payment, and even some international payments. So against the backdrop of Mr S' typical account use, a single payment of £1,901.90, being paid to Remitly, who are a legitimate online remittance service just isn't something I'd have expected Starling to have had concerns about.

I've also thought about the reasons Mr S has shared for why he believes any new payment to Remitly should be challenged. And his view that these payments are distinctly different to payments made to supermarkets or a restaurant, as it is a service that Starling can directly provide — that is, payments to an overseas account. But I don't agree that that alone is sufficient. And simply because Starling provides this service, doesn't mean payments made through a remittance service such as Remitly should all be blocked and/or challenged. Starling's customers may choose to use a service such as Remitly for genuine reasons, such as better rates, lower fees or quicker transfers. I take Mr S' point that if he wanted to send money abroad, he would've done so through Starling's service, but I can't reasonably have expected Starling to have known this at the material time.

Mr S also argues that Starling declining two payments after payment four and before it allowed payment five to go through demonstrates that its anti-fraud software was not working correctly. He feels this and Starling's conclusions that it should have done more is enough to ask it to refund his remaining loss. To be clear, I acknowledge Starling's acceptance that it should've done more but the crucial point is that it only accepts this from when payment two was processed, not before. Its reasoning being that it's systems ought to have identified two card payments in a short space of time totalling just under £4,000 as potentially suspicious and had it done so it could've prevented Mr S' subsequent losses. So the crux of this dispute, that being whether Starling reasonably should have (including its anti-fraud software) flagged and declined payment one remains for me to decide. And for the reasons above I'm not persuaded Starling (which includes its anti-fraud software) not doing so was unreasonable.

Mr S also refers to the recent changes that have been made to the PSRs 2017 through which victims of APP fraud can in limited circumstances get back the money they've lost. He asks that his situation is looked into taking this into account. These new rules only came into force in October 2024; aren't retrospective; and apply to authorised 'push' payments. I've already explained above, why the disputed payment(s) aren't considered 'push' payments. They were also made before October 2024, so this wouldn't be a relevant consideration here. Mr S says major banks were already refunding customers on this basis, and he thinks this is something which Starling should also have done. I think what Mr S is referring to is the Lending Standards Board's Contingent Reimbursement Model (CRM code), a voluntary code which some banks had signed up to through which victims of APP fraud, in certain circumstances, can receive a refund of their losses. But this scheme also doesn't cover card payments, so I can't say by not providing a refund under the CRM code Starling have acted unreasonably. I appreciate Mr S has received back in full the sum he lost to the scam through another of his bank's 'C', with some of this being recovered and the remainder being reimbursed by them. I understand that he doesn't consider this to be equitable treatment by two reputable banks and deems it unfair that card payments aren't covered. But my role doesn't extend to deciding if the scheme itself is fair, it is to decide whether Starling have correctly applied it (where relevant). And another bank choosing to refund scam losses (under the CRM code or otherwise) isn't a basis upon which I can ask Starling to do more here.

Mr S asked that I take into consideration articles which he has shared about fines being imposed on Starling for failings in its financial crime systems and controls. He also states that Starling's profits increased by 54% last year to a record £301 million. Therefore, asking it to refund his remaining loss is vanishingly small in comparison. I've thought about what Mr S has said but neither of these form a basis upon which I can say Starling's acts or omissions in relation to the specific circumstances of this case were fairly and reasonably the cause of Mr S' remaining loss. And without there being a causal link between any failure and the outstanding loss, I can't fairly make an award. This is the case irrespective of the imbalance in assets between Starling as a business and Mr S.

I've also considered if Starling could've done more to assist Mr S in trying to recover his losses once he'd reported the scam. But as these were debit card payments, the only avenue available to it would've been through the chargeback scheme. But here as the payments were made to a genuine money remitter who had provided the service they were meant to (remittance of the funds) the prospect of recovery/success through the chargeback scheme was unlikely, so I can't say by not raising a claim, Starling have acted unreasonably or that not doing so has impacted what could've been recovered.

Whilst Mr S hasn't disputed the compensatory award made for service failings and was happy to offset the sum of £300 Starling paid him against his financial loss. A compensatory award is separate to a financial loss award. So for completeness I've considered Starling's actions when Mr S reported the matter to them and its handling of the claim and I think that £300 fairly compensates him for the distress and inconvenience caused.

So having taken everything into consideration, I do not consider Starling's decision to not provide a refund for the first disputed payment of £1,901.90 unfair nor unreasonable. And I think the compensation sum of £300 which has been paid for the poor service is fair. So for these reasons, I'm not going to require Starling to do more to resolve this complaint.

Mr S says, *“I would have hoped that the Ombudsman would be on the side of the little man (me), not the banks ... I see that the banks fund you; perhaps this explains why you have such an unfair rule.”* To re-emphasize, we are an independent and impartial service – we do not take sides. And I’m not sure what rule Mr S is referring to but the rules which govern our service, and which we must follow, are set by the regulator – the Financial Conduct Authority (FCA).

I’m genuinely sorry to hear that Mr S has been the victim of a cruel scam and of the impact this has had on him. But despite my natural sympathy, my role requires that I remain impartial. And here for the reasons I’ve set out above, it wouldn’t be fair to ask Starling to refund Mr S’ loss or do anything more to resolve this complaint.

I appreciate Mr S’ strength of feeling about what has happened here, and he is under no obligation to accept my final decision. If he doesn’t accept my decision, it won’t be legally binding, and he is free to pursue Starling through other avenues, such as the courts, should he decide to do so. If this is something Mr S is considering, I’d recommend that he seeks independent legal advice.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S and Mrs S to accept or reject my decision before 14 February 2025.

Sonal Matharu
Ombudsman