

## **The complaint**

Mrs W has complained that Starling Bank Limited ("Starling") hasn't refunded what she lost after 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.

Mrs W has explained that in July 2024 she was contacted by phone by an individual ("the scammer") purporting to be a member of staff from Starling. She says the scammer told her the bank had noticed suspicious activity on her account and needed to check the legitimacy of some recent transactions. After some further conversation in which it appeared the scammer was checking the security of Mrs W's account, she was advised Starling would need to create a new account in order to keep her money safe, and that her existing funds would need to be transferred to the new account.

Mrs W says the scammer then made two payments from her account, one for £207 to a supermarket and one for £1,557.42 to a holiday company. Mrs W explains that although she was dubious about this, she complied with the scammer's instructions and authorised the payments using the notifications shown in her Starling mobile phone app. She was told she'd receive a link by email which would give her access to her new account.

Mrs W realised she'd been scammed when she called Starling because she hadn't received the link. She was advised at that point that she'd been scammed. She was told the matter would be investigated, and that in the meantime she should contact the merchants that the scammer had made payments to. Once Starling had finished its investigation it told Mrs W it wouldn't refund the payments that had been made.

Mrs W made a complaint to Starling, but Starling didn't uphold the complaint as it said Mrs W had approved the payments the scammer had made. It also said the payments made wouldn't have appeared suspicious to Starling, so it wouldn't have identified them as being related to a scam. It did however pay Mrs W £50 for the delays in responding to Mrs W on several occasions.

Mrs W remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained he didn't think Starling ought to have taken different action or prevented the payments from taking place. So he didn't think it was responsible for what Mrs W had lost.

As Mrs 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 Mrs 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.

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.

Mrs W says that having reviewed the scam guidance on Starling's website, she believes the way she was scammed falls under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code. She says she should be refunded under the Code as what happened to her meets the definition of an impersonation scam.

Whilst I agree what's happened here was indeed an impersonation scam, the CRM Code doesn't apply to all scam-related transactions; it only applies to transactions made as payments using Faster Payments or CHAPS. In this case the scammer used Mrs W's debit card details to make card payments, so the CRM Code doesn't apply here.

Before both of the payments were made Mrs W was asked to approve them in the Starling application on her mobile phone. Starling has provided evidence of what the approval screens would've looked like and I'm satisfied that it would've been clear the payments were being made to a supermarket and a holiday company, and not to another account in Mrs W's name, like she was told.

I do understand that Mrs W was likely pressured by the scammer and led to believe the payments needed to be made quickly, giving her minimal time to think about what she was doing, but I need to consider what Starling did, or should've done, in this situation to protect Mrs W. And I think this intervention provided sufficient opportunity for Mrs W to firstly understand that the payments weren't consistent with what she'd been led to believe, and secondly to stop them if she had any doubts about them. I know Mrs W says she was told by the scammer that the payments would appear as being made to retailers to "mask" their true purpose – but I don't think it's reasonable to accept that a bank would do something like this – especially as the money was allegedly being moved to another account in Mrs W's name.

I've also reviewed the previous activity on Mrs W's account to understand her general spending patterns, and having done so, I'm persuaded that it was fair for Starling to allow the two payments in question to be processed without blocking them or requiring more than Mrs W's approval in the Starling app.

I say this because although I understand the cumulative value of the two transactions is significant to Mrs W, individually the transactions weren't so out-of-character that Starling ought to have been suspicious of them, or aware they were part of a scam. Starling needs to have systems in place to detect and protect its customers from fraud, but it needs to balance that with its obligations to follow customers' instructions and process payments promptly. It wouldn't be practical for banks to be expected to intervene in all payments that were slightly higher or different in comparison with usual payments on someone's account, and I think that's the case here.

Having considered everything I'm satisfied that aside from asking Mrs W to approve the payments in the Starling app, Starling didn't have any further reason intervene in the payments that were unfortunately made as part of this scam. And whilst I know Mrs W made the payments with good intentions, and wasn't aware of the risks involved, it doesn't automatically follow that Starling should be responsible for the resulting loss.

### Recovery of the funds

In this case the payments were made using Mrs W's debit card, so 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 merchants didn't provide the goods or services that Mrs W paid for. So although I understand the purchases would've unfortunately been provided to the scammer and not to Mrs W, there's no evidence that merchants didn't fulfil their obligations to provide the goods that were paid for. As the dispute doesn't lie between Mrs W and the merchants, but instead Mrs W and the scammer, 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 Mrs W has fallen victim to this scam and I fully accept that she's the victim here. But I can only tell Starling to put things right if I think what happened to Mrs W was the result of a failure on the part of Starling. And for the reasons I've explained, I'm afraid I don't think that's the case here.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 28 November 2024.

Sam Wade  
**Ombudsman**