

The complaint

Mr Y is unhappy that Starling Bank Limited will not refund £1,607.52 he lost as the result of a scam.

What happened

As both parties are familiar with the details of the scam I will not repeat them in full here. In summary, Mr Y fell victim to an impersonation scam that started when he entered his primary bank card details into a postal redelivery form for his new Starling card. It was being replaced after an unauthorised transaction on his account. He was then contacted by the scammer pretending to be from his primary bank. On their instruction, and supposedly to protect his money, he moved money into his Starling account. From there, on 4 October 2024, he made two payments of £803.76 by debit card to an account at a money transfer provider. When a third payment failed the scammer ended the call. Mr Y then realised he had been scammed and contacted Starling.

Mr Y says Starling has failed to protect him. Indeed he suspects the bank staff sold information to the scammers or some internal corruption took place to allow the scam to start. He is also unhappy with how Starling responded when he raised his refund claim.

Starling says Mr Y authorised both transactions using Mastercard SecureCode 3D Secure (3DS) which is an anti-fraud tool for online payments. As the payments were made by debit card the principles of the Contingent Reimbursement Model code do not apply. So there are no grounds for it to refund the payments.

Our investigator did not uphold Mr Y's complaint. He said there had been no reason for Starling to intervene before processing the payments as they did not have any suspicious characteristics. And the money could not be recovered under the chargeback scheme as the money transfer provider had supplied the service Mr Y bought. He had seen no evidence to support Mr Y's claim that Starling were in some way responsible for the scam.

Mr Y disagreed with this assessment and asked for an ombudsman's review. He said the initial unauthorised payment shows Starling's security is weak and the starting point of this scam. It might be right that he verified the payments in-app but he immediately asked Starling to stop them as it was fraud so it can't be said that he authorised the transactions. And even though these two transactions combined were similar in value to a previous debit, it can't be said that's usual for his account.

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 am satisfied that Mr Y made and authorised the payments. Mr Y knew who he was paying, and the reason why. At the stage he was making these payments, he believed he was moving funds to keep them safe and that they would then be returned to his primary bank account. I don't dispute Mr Y was scammed and he wasn't making payments

for the reason he thought he was, but I remain satisfied the transactions were authorised under the Payment Services Regulations 2017. Mr Y argues that as he rang Starling to try and stop them almost immediately it could be said they were not authorised, but I disagree. He had provided in-app biometric approval prior to realising he was the victim of a scam. The fact he went on to want to stop and recall the payments does not alter the fact he had previously authorised them.

It's also accepted that Starling has an obligation to follow Mr Y's instructions. So in the first instance Mr Y is presumed liable for his loss. But there are other factors that must be considered.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what was good industry practice at the time, I consider it fair and reasonable that in October 2024 Starling should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving and the different risks these can present to consumers, when deciding whether to intervene.

To note, as the payments were made by debit card the principles of the Contingent Reimbursement Model (CRM) code do not apply in this case.

In this overall context, I do not think Starling can fairly be held liable for the payments. I'll explain why.

I think it was reasonable for Starling to process these transactions without intervention. I do not find they had characteristics that ought to have led Starling to conclude Mr Y was at risk of possible financial harm. It did not have much of an account history for Mr Y, this was evidently not his primary account. But I cannot see there were any indicators Starling missed that the two payments might be fraudulent. There is a balance to be struck. Banks have obligations to be alert to fraud and scams and to act in their customers' best interests. But they can't reasonably be involved in every transaction, this would cause unsustainable disruption to legitimate payments activity.

I have then considered if Starling did what we would expect to try to recover Mr Y's money once it was told about the scam. As the payments were made by debit card the opportunity to recover the funds would be through the chargeback scheme. But I don't consider that a chargeback claim would have had any prospect of success. There would have been no valid chargeback right given there was no dispute that the money transfer provider fulfilled the service it 'sold' to Mr Y. So I can't say there was any failing in this regard on Starling's part.

Mr Y claims that a security breach at Starling, or possibly the intentional leaking of personal

data, triggered this scam. And whilst he has presented why he believes this, he has not provided any supporting evidence. Without this, as we are an evidence-based service, I cannot consider his allegation further.

It follows I am not instructing Starling to refund any money to Mr Y. I'm sorry Mr Y has lost a considerable amount of money and I can understand why he would like to be compensated for his loss. I do accept Mr Y has fallen victim to a sophisticated scam. But I can only consider whether the bank, which had no involvement in the scam itself, should be held responsible for what happened. For the reasons set out above I do not find Starling can be held liable in the circumstances of this case.

Mr Y also said he was unhappy with how Starling acted when he reported the fraud, saying it was slow. But it told him on 4 October 2024 someone would contact him within 15 days if any further information was required, with an aim to resolve the claim within 35 days. It provided Mr Y with the outcome of his claim on 21 October 2024. I do understand any wait is hard in these kind of distressing circumstances. However, Starling responded within the timeframe it had given Mr Y so it does not need to take any corrective action in this regard.

My final decision

I am not upholding Mr Y's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 3 April 2025.

Rebecca Connelley
Ombudsman