

The complaint

D, a limited company, complains that Starling Bank Limited won't refund the money it lost when it was the victim of what it feels was a scam.

What happened

In April 2021, D entered into a drop shipping agreement with a retail company. It agreed to pay £13,000 for the creation of a store on an online marketplace, where order fulfilment would be handled by the retail company. And the store was active for a few years, but D didn't receive the level of income it understood it would and a number of refunds had to be processed to customers due to non-delivery of goods.

D complained to the retail company that it hadn't been providing the services in line with its agreement and attempted to make a claim under a buy-back guarantee the retail company offered. Around this time, the retail company suggested D set up a store on a second online marketplace. And D agreed to this and so made a payment of £1,500 from its Starling account to pay for this second store, as set out below:

Date	Details	Amount
29 August 2022	To retail company	£1,500

Unfortunately, D was told it wasn't eligible to use the second online marketplace. And the retail company later went into liquidation. So D felt it had been the victim of a scam and reported the payment it had made to Starling.

Starling investigated but said it felt this was a civil dispute between D and the retail company, rather than a scam. So it didn't agree to refund the payment D had made. D wasn't satisfied with Starling's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think the available evidence demonstrated that the retail company never intended to act in line with its agreement with D, so didn't think the circumstances here met the definition of a scam or that Starling should have to refund the payment D had made. D disagreed with our investigator, so the complaint has been passed to me.

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.

D's initial payment of £13,000 for the creation of a store on the first online marketplace was made from an account with a different bank, and so has not been considered as part of this complaint. This complaint is only in relation to the payment of £1,500 made from D's Starling account for the store with the second online marketplace.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services

Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

At the time of the payments, Starling was a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This required firms to reimburse customers who had been the victim of certain types of scams, in all but a limited number of circumstances. But customers were only covered by the code where they had been the victim of a scam – as defined in the code.

The relevant definition of a scam from the CRM code is that the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The CRM code also says it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So in order to determine whether D has been the victim of a scam as defined in the CRM code I need to consider whether the purpose it intended for the payment was legitimate, whether the purposes it and the retail company intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of the company.

From what I've seen, I'm satisfied D made the payment here with the intention of paying the retail company to set up a store on the second online marketplace. And I haven't seen anything to suggest D didn't think this was legitimate.

But I'm not satisfied the evidence I've seen shows that the retail company intended a different purpose for the payment, or that D's and the retail company's purposes for the payment weren't broadly aligned.

I've thought very carefully about this, and I think it's a finely balanced matter in this case. But where the evidence available is unclear or inconclusive, I must make my decision on what I think is likely to have happened, based on the evidence I do have.

The store on the second online marketplace doesn't appear to have ever been set up for D. But companies can fail to provide goods or services they have agreed to for a number of reasons, which don't necessarily mean they were intending to operate a scam. So I don't think the store not being set up is, by itself, sufficient evidence to say the retail company was operating a scam here.

From what I've seen of D's communication with the second online marketplace, it appears that an application was submitted for a store to be opened for D. But the online marketplace turned down this application, as it wasn't satisfied D had a sufficient proven sales history. And, whether or not this decision to turn down D's application was justified or not, the decision appears to have been made by the online marketplace – rather than by the retail company. So I don't think this decision suggests that the retail company didn't intend to provide the store and, instead, I think the fact that an application was clearly submitted suggests the retail company was at least attempting to provide the store.

I've also considered information made available to our service about the retail company, including information relating to the account D sent the money to. And while I can't go into detail about what this information shows, I think the activity on the account suggests the retail company was at least attempting to operate as a legitimate business.

I understand the retail company has now entered liquidation and that there is an ongoing police investigation into the company and those involved with it. But a police investigation does not necessarily mean there has been any wrongdoing, only that there is some suspicion of wrongdoing. And I haven't been provided with evidence of any investigation by an external organisation which concludes that the retail company was operating a scam in relation to the payment D made here.

D has also raised that the retail company was aware its business model had failed, but that it still took its money and had no intention to provide the agreed services. But most of the arguments D has made here are in connection to its agreement in relation to the first online marketplace, so aren't relevant to this payment for a store on the second marketplace. And, as I explained above, the D's application to the second online marketplace was turned down by the marketplace itself, which I don't think suggests the retail company didn't intend to provide the agreed services.

D also mentioned that other banks have concluded that the retail company was operating a scam. But our service looks at each complaint individually, on its own merits. And I don't think other banks agreeing to refund customers who paid the retail company necessarily means Starling should have to refund D here.

Based on the evidence I've seen, I'm not persuaded the available evidence is sufficient to safely conclude that the purpose the retail company intended for this payment was different than the purpose D intended. And so I think Starling has acted reasonably in saying the circumstances here don't meet the definition of a scam from the CRM code, and in not agreeing to refund the payment D made here as a result.

I sympathise with the position D has found itself in and I'm also in no way saying it did anything wrong or that it doesn't have a legitimate grievance against the retail company. But I can only look at Starling's responsibilities and, for the reasons I've explained above, I don't think it would be fair to require Starling to refund the payment D has complained about here.

It's possible that material new evidence may become available at a future date, which suggests that the retail company did take the payment using dishonest deception. If that happens, D can ask Starling to reconsider its claim for this payment and, if not satisfied with its response, bring a new complaint to our service.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 19 December 2025.

Alan Millward
Ombudsman