

The complaint

Miss W complains that Starling Bank Limited (Starling) won't refund the money she lost when she fell victim to a scam.

What happened

In October 2022, Miss W fell victim to a scam. Following receipt of what appears to have been a phishing text, Miss W was called by someone claiming to be from a firm she banks with. She was told her accounts were at risk. She was ultimately persuaded to move funds from her other accounts to Starling.

The caller then asked Miss W for payment details in order to move £500 to another account, which she agreed to. This involved her using the Starling app to approve the payment. Following this, she was persuaded to send two bank transfers to an individual, thinking this was necessary to keep her funds safe until her accounts were secured.

Miss W was told she would receive the money back within two hours. When this didn't happen, she realised she had been scammed and notified Starling.

Starling has been able to recover the bank transfers Miss W sent, but not the £500 card payment. It didn't agree to refund her for the outstanding loss. It said she would have seen a screen making it clear the payment was being sent to a particular merchant – as well as showing a scam warning. But it did pay £50 compensation for Miss W's distress and inconvenience.

Unhappy with this response, Miss W referred the matter to our service. She said she had reasonable cause to trust the person who called her. And Starling hadn't done enough to identify the payments as risky and warn her effectively.

Our investigator didn't uphold the complaint. They didn't think Starling had cause to identify the card payment as presenting a fraud risk at the time, nor that it missed an opportunity to recover the outstanding loss. Overall, aside from the £50 compensation Starling had paid, the investigator didn't think it needed to take further action to put things right.

Miss W has appealed the investigator's outcome, so the case has been passed to me to decide. In summary, Miss W says the £500 payment was by far the largest payment she had made within a year, utilised a significant amount of the account balance (around 25%), and constituted a significant amount of her loss to the scam. So it should have triggered an intervention by Starling.

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 decided not to uphold it. I appreciate this will be disappointing for Miss W, who has clearly fallen victim to a scam. But having carefully considered the circumstances, I'm not persuaded it's fair to expect Starling to reimburse her for the remaining loss she is seeking. I'll explain why.

As the bank transfers have already been recovered/refunded, I'll only be addressing the £500 card payment.

It seems to be accepted that the card payment was authorised by Miss W. It seems she understood the steps she was taking would allow a £500 payment to be taken from her account. It's just that she was tricked about where/why it was being sent. Under the relevant regulations, the Payment Services Regulations 2017 (PSRs), that means it is deemed authorised. As she understood she was taking steps to make a payment (or at least to allow someone else to make a payment on her behalf).

The starting position under the PSRs is that a customer is liable for a payment they authorise. Starling has a duty to act on authorised payment instructions without undue delay. But that's not an unfettered duty. There are circumstances when it might be appropriate for Starling to take additional steps before processing a payment. Such as when there are grounds to suspect the payment presents a fraud risk.

This appears to be the main crux of Miss W's complaint; she thinks Starling should have identified the payment as potentially fraudulent, and so should have taken further steps to effectively warn her about the risk.

I've carefully considered the points Miss W has raised about why she thinks Starling should have identified the payment as suspicious. But overall, I think it would be too onerous on Starling to expect it to have intervened further before processing the payment.

While I appreciate the payment was more than any individual payments Miss W had made in the year or so prior, I don't think it was so significantly high or unusual that it ought to have given Starling cause for concern. Ultimately, a balance must be struck between identifying payments that could potentially be fraudulent – and then responding appropriately to any concerns – and ensuring minimal disruption to legitimate payments, bearing in mind the volume and velocity of payments processed by banks.

In order for the payment to be made, Miss W had to go into her app and confirm that she wanted to make it. The screen showed the amount and which merchant the payment was being sent to. So I think that would have offered Starling some reassurance it was likely Miss W making the payment, and that she knew where the payment was being sent to.

The payment didn't completely clear the account balance. Miss W also didn't tend to hold a particularly significant balance in her Starling account. So I don't think the proportion of the balance utilised, or the overall context, meant the payment posed an obvious fraud risk. While I appreciate the significance of the loss to Miss W, I do ultimately think it was reasonable for Starling to process the payment request in line with the authorised instructions it received without intervening further.

It may be helpful to explain that, unlike the bank transfers, the card payment doesn't fall under the scope of the Lending Standards Board's Contingent Reimbursement Model (CRM) code for authorised push payment scams. That's because card payments are a type of 'pull' payment and are thus not covered by the code. We still expect banks to monitor card payments for fraud risks – and to respond proportionately when such a risk is identified. But, as set out above, I've not found Starling had cause to suspect the card payment posed a fraud risk.

I also agree with the investigator that Starling didn't miss an opportunity to recover the payment. As it was sent by card, it's covered by the voluntary chargeback scheme. That offers limited recourse, under rules set by the card scheme provider, to "charge back" funds from the merchant paid. But that generally applies when there is an issue with the services of that merchant. Here, the money was sent to a genuine merchant, and I've seen no suggestion there was an issue with their services; it seems they loaded/converted the funds in line with the payment instructions received. So I don't think Starling would have been able to help Miss W pursue a successful chargeback claim.

Overall, I don't think Starling needs to take further action to put things right. It has paid Miss W £50 compensation for her distress and inconvenience. From what I've seen, that appears to be a fair reflection of any unnecessary upset Starling caused her while considering her claim. I've not seen anything which persuades me it ought to compensate Miss W further. And, for the reasons I've explained, I don't think it would be fair to hold liable for the outstanding loss from the scam.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 12 January 2024.

Rachel Loughlin
Ombudsman