

The complaint

A company, which I'll call "B" is complaining that Starling Bank Limited won't refund the money it lost in an authorised push payment (APP) scam.

What happened

B opened a business current account with Starling around 1 August 2022.

B wanted to buy some goods to sell, and decided on two suppliers it had found on an online commerce platform. B says it investigated both suppliers before it went ahead with transferring money to them and found them to be genuine companies. B also says it called Starling on 29 August 2022, before going ahead with the payments - and was assured that it would receive a refund if anything went wrong with the payments.

On 30 August 2022 B made an online payment of £1,292.87 to one of the suppliers. And on 31 August 2022 B transferred £1,295.57 to the other supplier. Both were international payments – the first to a bank in Lithuania, and the second to a bank in Poland.

On 31 August 2022 B contacted Starling about the payment to the second supplier, as it thought it had been sent incorrectly. Starling initiated a recall request from the Polish bank. But B then asked Starling to halt the recall, as in the meantime B had received a message from the supplier confirming they'd received the funds.

On 1 September 2022 B was contacted by someone who said they were the company delivering the goods. They asked B to transfer money to them in order to pay various customs and insurance fees. B made four more payments to this company between 2 September 2022 and 7 September 2022, totalling nearly £4,000.

On 8 September 2022, after not receiving the goods when expected, B realised it had been scammed. B called Starling to report the scam.

Starling acknowledged B's report of fraud. They said they would investigate, and that they were contacting the receiving bank to try to recover the payments. But Starling didn't contact the receiving bank in Lithuania until 20 September 2022 – and the receiving bank didn't reply. Starling had already attempted to recall the payment to the Polish bank after B's request on 31 August 2022, but had been unsuccessful.

On 3 October 2022 Starling told B they couldn't recover the payments B had made. B complained, and Starling sent B their final response to the complaint on 7 November 2022.

They said, in summary, that they thought they'd done what they needed to do to try recover the payments. But they accepted they should have kept B better informed about the recovery attempt, and paid B £50.

B brought its complaint to us. It thought Starling should refund the money it had lost in the scam. Our investigator looked into things, but he didn't think Starling needed to do anything else. He said, in summary, that there hadn't been anything about the payments that would

have caused Starling to intervene.

B didn't agree, so the complaint was passed to me for review and a decision.

I issued my provisional decision on 4 September 2023. This is what I said.

I'm sorry to learn about what happened to B. But at the moment I don't think that I can fairly say that Starling should refund the money B lost in the scam. I'll explain why.

It's not disputed that B authorised the payments. And Starling have a duty to act on B's instructions. But in some circumstances a bank should take a closer look at the circumstances of the payments – for example, if it ought to be alert to a fraud risk, because the transaction is unusual, or looks out of character or suspicious. And if so, the bank should intervene, usually by contacting the customer directly, before releasing the payments.

It's not in dispute that B was the victim of a scam. But B opened its account with Starling shortly before the first payment, so there wasn't a pattern of transactions for Starling to refer to, to see if these payments were out of character. This is a business account, and it's not unreasonable that set up costs for a business would involve relatively high value transactions to suppliers of stock, possibly based abroad. So, I don't think Starling should have been alerted by the value of the payments, or the payees, as they weren't unusual in this context. And as it was a new account, I don't think Starling should have been alerted by new payees being set up, as it's natural this would happen after a new account has been opened.

B has told us it had a conversation with Starling the day before it made the first payment, as it was concerned about the potential for fraud. B says Starling told it that if the transactions were fraudulent, they would be able to process a chargeback and return the payments to B's account. So, B says it relied on Starling's assurance it would get its money back if something went wrong. B says if Starling hadn't assured it of this, it wouldn't have made the payments. Starling haven't been able to trace a recording of the call and they don't have any notes about it, but B's sent us evidence of a call being made to Starling on the morning of 29 August 2022 which lasted for seven minutes. Starling say that if B had been on hold waiting to speak to someone for the whole of that time, the call wouldn't have been recorded or show on their systems. But B has been clear and consistent in its account that the conversation took place. On balance I'm persuaded it's likely it did.

At the time of the call B hadn't made the payments, so Starling wouldn't have had any detailed information about them to be able to identify if it was likely they were fraudulent or not. They would only have been able to give B general advice about their approach – which does seem to be what they've done, as B has specifically mentioned a chargeback, which relates to card payments rather than online payments. So, the advice wasn't specific to B's intended payment method. This could be because the intended payment method wasn't made clear to the adviser, or it could be that the adviser made a mistake in telling B the chargeback rules applied to online payments.

So, I've thought about what the position would likely have been if B had been told, correctly, that it's not possible to do a chargeback on an online payment, and although a business would attempt to recover an online payment if something went wrong it's not guaranteed to be refunded. And I don't think B would have done anything differently. I say this because B had correctly been cautious, had done some research, and was apparently satisfied that the suppliers were genuine companies before making the payments. It's also clear from the messages between the scammers and B, that B had been convinced by the conversation it had with them that they were genuine companies before it went ahead with the payments. And these messages took place after B's call with Starling on 29 August 2022.

In other words, I don't think the conversation with Starling was the deciding factor in whether B went ahead with the payments, because I think B had been convinced the companies were genuine at the time the payments were made.

And at that time the payments B intended to make were to what it thought were suppliers of goods needed to start up B's business – which B had researched online already. So, I don't think anything about B's description of the intended payments would have given Starling cause for concern, such that they should have intervened at this point to warn B about the potential for fraud.

The payments B was then asked to make to pay to the delivery company for the goods to be released may have given Starling cause for concern, if they'd known about them, as this is a well-known scam. But I've not seen anything to show B spoke to Starling about these particular payments, as B made all these payments online. So, I don't think Starling missed an opportunity to identify the scam while it was going on.

There are industry standards around attempting recovery of funds where a scam is reported. Starling should have attempted to recover B's payments immediately on being told of the scam. I can see that this didn't happen here, and it took Starling around twelve days to contact the receiving bank to try to recover the funds.

I've thought carefully about this but I don't think this makes a difference to the overall outcome. I say this because when Starling did contact the receiving bank, they didn't respond at all. And I've no reason to think the receiving bank would have taken action to recover the funds if they had been contacted by Starling earlier. And I'm also mindful that the scammers had had the payments for between 24 hours and ten days by the time B reported the scam to Starling. In most cases the funds would have already been removed from the receiving account in that time. Starling have paid B £50 for not keeping it informed about the progress of the recovery attempt, and I think this is fair and reasonable in the circumstances.

It's clear that B was an unfortunate victim of a scam, and I know this outcome will be very disappointing. However, for the reasons I've explained, I don't think Starling should have done more to prevent B's loss. So, it wouldn't be reasonable for me to ask Starling to refund the payments B made.

I asked both parties to reply to my provisional decision with anything they wished to add before I issued my final decision by 18 September 2023.

Neither party replied to my provisional 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.

Having done so, and in the absence of any further evidence or comments from either party, I see no reason to depart from my provisional decision not to uphold B's complaint.

My final decision

My final decision is that I'm not upholding B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 2 November 2023.

Helen Sutcliffe
Ombudsman