

The complaint

Miss F has complained Starling Bank Limited won't refund money she lost from her account as a result of a scam.

What happened

In 2022 Miss F received a call from someone stating they were from her bank, Starling. She was told a fraudulent payment was being attempted from her account for £750. She could see this was the case and rejected the payment on her app as requested.

Miss F was immediately reassured that the call came from her bank, and they had her interests at heart. At the same time she was extremely concerned about losing any money from her account. They went on to ask whether she'd got any messages about a parcel not being delivered properly. She said she had and had responded to that message providing them with her name and card details. She was warned not to do so again and that this had led to the account compromise. She would need to take action to ensure her money was kept safe.

Miss F then followed the instructions she was given, including giving the person on the phone – supposedly Starling – the codes sent by Starling, her actual bank, to authorise the transactions. She was told these were needed to set up a new account. She believed a separate account was being set up in her name and three payments, £1,500, £4,000 and £800, were made by her card to this account. She was told she'd be able to access her new account using face ID.

After the call was brought to an end abruptly, Miss F realised something was wrong. With her father's help, she was able to get the two later transactions made to a money transfer service with her card refunded. She called Starling quickly after what had happened to ask them to help refund the payment for £1,500. This was the amount she couldn't get back as it'd already been spent. They wouldn't do so.

Miss F brought her complaint to the ombudsman service.

Our investigator noted Starling had warned Miss F that they would never ask her to share the code but had not taken additional steps to carry out checks on her payments. She believed they should have done so when Miss F was transferring £4,000 out of her account as this amounted to the vast majority of her remaining money. However as this money and the later payment had already been refunded to Miss F by the money transfer service, she couldn't ask Starling to refund Miss F the outstanding £1,500.

Miss F didn't agree with this outcome. Her complaint has been referred to an ombudsman.

I completed a provisional decision on 19 May 2023. I believed there had been adequate opportunity for Starling to take steps and intervene. I asked them to refund Miss F the outstanding £1,500.

Miss F agreed with this outcome. I received nothing further from Starling.

I now have all I need to complete my final 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 received no dissenting opinion or evidence, I've reached the same outcome as I did in my provisional decision. I'll explain why.

There's no dispute that Miss F made and authorised the payments. Miss F knew the reasons why she was being asked to set up a new account and why she needed to share codes and other details to help her supposed bank. At the stage she was making these payments, she believed she was taking urgent action to keep her own money safe. She believed once this had been done, she'd be able to access her new account.

I don't dispute Miss F was scammed but under the Payment Services Regulations 2017 I'm satisfied the transactions were authorised.

It's also accepted that Starling has an obligation to follow Miss F's instructions. So in the first instance Miss F is presumed liable for her loss. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that Starling should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- 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 (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

Miss F fell victim to a sophisticated scam. Unfortunately safe account scams – which is what this was – are not massively unusual. Miss F realises how this happened as she responded to a fake message supposedly from a delivery company. This allowed fraudsters to know Miss F had an account with Starling and meant they could tailor their approach to her and make it believable.

So, for example, the call Miss F received came from a number not that different to the Starling phone number. I know Starling have said they'd have expected Miss F to undertake some checks to ensure who was calling her was genuine. I disagree. I don't think this takes into account the stress that can be caused by these kind of calls and the panic they're meant to engender in the people who receive them. Particularly when I take into account Miss F's personal circumstances.

The fraudster was also able to explain in detail how Miss F should make the payments and direct her to the relevant aspects which helped to gain her trust.

Starling has confirmed they do have mechanisms in place to check unusual transactions, but Miss F wasn't doing anything sufficiently unusual to trigger any warnings.

However I find this surprising. Miss F by making three payments in quick succession emptied her current account, apart from a few pounds. This should have been sufficient for Starling to have taken action as these activities strike me as unusual.

In addition, I'm aware that by the time the three payments were authorised and made, a payment of £729 and two payments of £1,500 had been attempted. These show on the list of transactions Starling shared with us. Although these payments were unsuccessful as they weren't authorised successfully, I believe those attempted payments should have alerted Starling that something was wrong.

I have taken into account that Miss F was presented with warnings not to share her codes to authorise the payments. However by this time Miss F was convinced she was talking to her genuine bank so didn't see anything wrong in doing so.

There's no record of any similar card payments on her account within the preceding six months. I don't believe any argument that this reflects her normal payment behaviour would stack up.

For these reasons I believe Starling should have undertaken additional steps to intervene at the time the first payment of £1,500 was successfully authorised. Financial institutions are able to block card payments, and this is the step I'd have expected Starling to have taken here. This would have brought what was happening to an end as I'm sure if Miss F's card had been blocked, the fraudsters would have come off of the phone immediately.

As I say, safe account scams are not unusual. All banks are aware of how these operate. The use of a card to send payments to a money transfer service is particularly prevalent. This limits banks' ability to send messages which can be done when customers are making online transactions.

Putting things right

As I believe any intervention Starling should have made would have changed what happened here, I am going to ask them to refund £1,500 to Miss F.

My final decision

For the reasons given, my final decision is to instruct Starling Bank Limited to refund £1,500 to Miss F.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 8 August 2023.

Sandra Quinn
Ombudsman