

## **The complaint**

Mr M has complained that Starling Bank Limited won't refund the money he lost after falling victim to a scam.

## **What happened**

Mr M was phoned by a scammer who impersonated Starling's fraud team. They said that he'd get notifications someone was trying to make payments using his card details, and that he should reject them. Mr M did so. But the notifications kept coming, as it was the scammer who was attempting the payments. The scammer then persuaded Mr M to accept the transactions, saying this would allow them to suspend his accounts and reverse the payments. They persuaded him to give them his full card details for his other Starling account, and they did the same thing there too. Mr M approved around £13,200 of debit card payments across his two Starling accounts, made to well-known merchants.

Mr M became suspicious and reported the matter to Starling right afterwards. One of the merchants agreed to refund the payment to them, of around £3,100. Starling agreed to reimburse around £5,100 themselves, as they acknowledged that Mr M was the victim of a sophisticated scam. But they felt they were not liable for the remaining amount of around £5,000.

Our investigator looked into things independently and didn't uphold the complaint. Mr M didn't agree, so the complaint's been passed to me to decide.

## **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 understand that Mr M fell victim to a scam, and so he has my sympathy. I appreciate this can't have been an easy time for him, and I appreciate why he feels that his money should be returned. It's worth keeping in mind that it's the scammer who's primarily responsible for what happened, and who really owes Mr M his money back. Whereas this case is about Starling, so I can only consider what Starling did here.

I understand that Mr M was tricked into approving the payments, and so he feels he didn't authorise them. But Starling's notifications clearly set out how much each payment was for and where it was going to, and warned that if someone had called Mr M and asked him to use that screen then it was a scam and he should reject the payments. It gave him the choice to approve or reject each payment. Mr M approved each of the ones which went out. So although he didn't intend the money to go to a scammer, the payments would be considered as authorised. Even if one authorises a payment with the hope that it will later be reversed, the payment is still authorised. That means that under the Payment Services Regulations, Mr M is liable for the loss in the first instance. And broadly speaking, Starling had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments that a customer authorises them to make.

Starling should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But I also accept that a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether Starling should have done more in Mr M's case.

The payments in question were to established, well-known merchants who Mr M had used a number of times before. While Mr M hadn't paid those merchants these sorts of amounts before, he had made other transactions of fairly similar or higher amounts in the months prior to the scam. And there was still a healthy balance left in Mr M's accounts afterwards – the payments didn't drain his accounts. So I don't think the payments involved were so unusual or out of character that Starling needed to intervene.

Further, even if I thought Starling should have flagged these payments, I would still need to consider Mr M's role in the matter. I do appreciate that this was a sophisticated scam, that Mr M was under pressure, and that he was ultimately trying to protect his accounts. But I'm afraid I think Mr M ought to have had more concerns about what he was being asked to do. I appreciate the scammer knew some of Mr M's details, even if those details were not particularly difficult to obtain through common ID theft methods. But the scammer called from an unknown number, and Mr M didn't have any real verification of who he was talking to. It wouldn't make sense to have to approve unwanted payments in order to stop them – banks can just block the account outright, approving them wouldn't stop a fraudster from trying further payments (in fact, it would encourage them), and the main point of the approval screen is so that the customer can reject unwanted payments. Further, the approval screens gave Mr M a clear warning about these scams, yet he went ahead.

So even if I thought Starling should have intervened, I would only hold them liable for 50% of the loss, as Mr M would still share responsibility for things going wrong. And Starling have already refunded a little over 50% of the transactions which the merchants didn't refund themselves. So I can't fairly require Starling to refund anything further.

Next, I've considered what Starling did to try to recover Mr M's money after he told them about the scam. While there are methods for trying to recover funds lost to scams, they only apply to certain types of payments, like bank transfers – but they don't apply to card payments. And these were card payments. So Starling couldn't use those methods. I've also thought about the possibility of a voluntary chargeback. But chargebacks can only be made for certain reasons under strict rules set by the card scheme. And there was no chargeback reason which would have fit here. So it was not realistically possible to get Mr M's money back that way either.

So it seems right that Starling found the merchants' relevant contact details and encouraged Mr M to contact them – that was the most likely way to get his money back. I'm glad to see that one of the merchants agreed to help him. I hope the other one does too.

Lastly, Mr M suggested that the scammer might have had his details due to a breach on Starling's end, and I appreciate why he thought to raise this. But the details he told us they had were details which could have been obtained through many different methods. For example, a merchant who Mr M paid previously may have been compromised, or scammers will do things like hack email accounts or go through discarded statements to find information. I've not found any good reason to think that the scammer got Mr M's details due to any fault or failure on Starling's part.

So while I'm very sorry to hear about what happened to Mr M, I do not think Starling can be held responsible for anything more than what they've already refunded. And so I can't fairly tell Starling to pay Mr M anything further in this case.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 October 2023.

Adam Charles  
**Ombudsman**