

The complaint

Mr A complains that Starling Bank Limited (Starling) won't refund money he lost in a scam.

What happened

What Mr A says:

Mr A was unemployed and looking for work. In June 2022, he was contacted via a social media platform to say there was a recruitment opportunity, and Mr A said he was interested. He was recruited and to gain commission, he had to complete 'tasks' or 'missions' – which involved him sending money to a crypto wallet in his name. Mr A had done some research and the platform looked professional. Mr A made a payment of £4,000 on 18 June 2022:

Date	Method/ Beneficiary	Amount
18 June 2022	Faster payment/ crypto wallet in name of Mr A	£4,000
Total loss		£4,000

Mr A completed the task but was then asked to top up the funds again. He said he didn't have any more money to do that, but was told that until he sent more money, he couldn't be paid. He asked for his money back, but this was denied. He realised he had been scammed. The funds had been sent to a crypto currency investment from his crypto wallet.

As a result of the scam, he has come under a lot of financial pressure due to the money he's lost. He has a young family to support. He has become anxious and depressed and suffers from loss of appetite and sleepless nights. He feels fearful and embarrassed.

Mr A (via his representatives) says Starling should've protected him but didn't. He says he wasn't provided with any warnings about the payment or how to protect himself from scams. He says Starling should refund the money, plus 8% per annum interest and compensation of £250.

What Starling said:

Starling didn't uphold Mr A's complaint or refund the money. They said:

- They sent a warning message to Mr A when he set up the new payee.
- They sent a tailored message to Mr A when he attempted the payment of £4,000 on 18 June 2022. Mr A answered the questions to their satisfaction. Mr A appeared to have done sufficient research when he made the payment. So - Starling released it.
- Mr A authorised the payment.
- The crypto wallet that Mr A sent the money to was a legitimate and registered digital

currency exchange service. If the funds were then moved to a merchant's trading account, this was at Mr A's own risk. It's not for Starling to check out the bona fides of the end recipient.

Our investigation so far:

Mr A brought his complaint to us. Our investigator didn't uphold it. He said:

- The payment was stopped by Starling for investigation.
- The intervention and questions asked by Starling were proportionate to the amount of the payment.
- On recovery, there wasn't anything for Starling to do – as the transfers to Mr A's crypto wallet were then moved into an investment, which couldn't be recovered in any case.

Mr A didn't agree. He said that given that Starling intervened, the questions weren't probing enough and weren't relevant to what happened. He said they related to a safe account / impersonation scam, rather than an investment scam. Starling should've gone further, such as: how he discovered the investment; and how he had been instructed to make the payment. He asked that an ombudsman look at his complaint, and so it has come to me to make a 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.

I'm sorry to hear that Mr A has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr A didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Starling should fairly and reasonably:

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

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) doesn't

apply in this case. That is because it applies to faster payments made to another UK beneficiary– and in this case, the payments were made to Mr A's own account– his crypto wallet.

I need to decide whether Starling acted fairly and reasonably in its dealings with Mr A when he made the payment, or whether it should have done more than it did. I have considered the position carefully.

If the payment was of a sufficient size and were out of character with how Mr A normally used his account – then we would expect Starling to have intervened and spoken to him about it. I looked at Mr A's account – and it does appear the payment was unusual. It was to a new payee. It was the first activity on the account for six months, and there was a 'nil' balance before June 2022. The payment in question was immediately preceded by a credit for £4,000.

So – it was the right thing for Starling to withhold the payment and contact Mr A about it – which is what they did.

I can see that Starling did two things:

- They provided a warning when Mr A set up the new payee. This said *"Could this payee be part of a scam? If in doubt, just stop here and visit our website to learn about avoiding fraud"*.
- Then, when Mr A attempted the payment, Starling withheld it and asked him several questions. I reviewed these. They said:
 - *Warning: Are you being told to make this payment? Anyone telling you what buttons to click, or asking you to read the text on this screen out loud is a criminal. You must not make the payment if you are being told how to answer the questions or explain the payment. Read each question carefully and answer truthfully, otherwise you could lose all the money sent. [Mr A] I understand.*
 - *Please tell us what this payment is for. [Mr A] Investments .*
 - *What are you investing in? [Mr A] Shares, funds, cryptocurrency, foreign exchange or pension .*
 - *How are you making this investment? [Mr A] Via a crypto or currency exchange .*
 - *Warning: Always research a company and check reviews from other people. If the investment returns sound too good to be true - this could be a scam. All Financial Advisors and Financial Institutions should be FCA registered. You can check the FCA register here <https://register.fca.org.uk/s/> [Mr A] I understand*
 - *Have you made an investment like this before? [Mr A] Yes.*
 - *Have you paid into this investment account and/or scheme before? [Mr A] Yes.*
 - *Have you paid this payee before? [Mr A] Yes, I've paid them before.*
 - *When did you last pay this person or company? [Mr A] Today.*
 - *Did you pay them from your Starling account? [Mr A] No, I paid them from an*

account with a different bank.

- *Have you been given new bank details for this payee recently? [Mr A] No.*
- *Warning Fraudsters will tell you how to answer these questions to scam you. A genuine organisation will never do this. A bank or any other organisation will never tell you to move money to a new, 'safe' bank account. Fraudsters can make phone calls appear to come from a different number. Are you speaking with who you think you are?*
- *If in doubt you can call us on XXXX. [Mr A] I understand.*

Based on this, I consider Starling provided relevant and proportionate warnings – and based on the answers Mr A gave, it was reasonable for them to allow the payment to go ahead.

Mr A confirmed what the payment was for (crypto currency/ investment); he acknowledged it could be a scam and was advised to do research; he said he hadn't been given the payee details recently (even though the scam started a few days before); and said he had paid them before (even though the evidence I've reviewed suggests he hadn't).

I acknowledge that at the end of the questions, there is a reference to safe account – but this is at the end of several well targeted (and many more) questions about investment scams, so I set aside Mr A's argument here.

Balance to be struck: It's also fair for me to say there's a balance to be struck: Starling has obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. And in this case, I think Starling acted reasonably in processing the payments, based on the value of the payment and Mr A's answers.

Recovery: We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Starling took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money. Starling said they'd not done so – because the payment went to Mr A's crypto wallet – and the money was then moved onto the bitcoin trading platform. I think that's a reasonable thing for Starling to have concluded.

Mr A has lost a lot of money. He's explained why the money was important to him, and the impact his losses have had. I was sorry to learn of his circumstances. He will therefore be disappointed by my decision, but I'm not going to ask Starling to do anything here.

(continued)

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or

reject my decision before 9 January 2024.

Martin Lord
Ombudsman