

The complaint

Ms S complains that Starling Bank Limited won't refund or recover the money she lost to a scam.

What happened

In June 2023 Ms S used a well-known booking website to book a hotel. She says that she was then contacted via a messaging service by someone claiming to be from the hotel, who had all the details of her booking, and who asked her to arrange payment for the booking via a link they sent to her. Ms S made the payment as requested, for £516.87, which is the amount she was expecting to pay for her hotel booking.

But Ms S quickly realised she had been scammed, and that the person she had paid had not been a legitimate representative of the hotel, so she contacted Starling to tell it what had happened. Starling looked at what had happened, but did not agree it was liable for Ms S' loss. Ms S was unhappy with this response, she maintained that Starling should refund the payment or take steps to recover it from the recipient, and so she referred her complaint to our service.

One of our Investigators looked into what had happened, but they considered that Starling had treated Ms S fairly here. They said that Starling could not have reasonably prevented the payment from being made. They also noted that, given the nature of the recipient – which was a payment processor rather than an individual account – there was no reasonable prospect of a chargeback being successful. So, they did not consider that Starling could have done anything to help prevent this scam, or to recover Ms S' money.

Ms S remained unhappy, so her case has now 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.

Having done so I've reached the same conclusion as our Investigator, and for the same reasons.

It's not disputed that Ms S authorised the payment that is the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Ms S is responsible for that payment. That remains the case even though she was the unfortunate victim of a scam.

Because of this, Ms S is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victim to scams.

As I'm satisfied the disputed payment was made to a scam, I've thought about whether Starling could have done more to prevent the scam from occurring altogether. Starling ought to fairly and reasonably be alert to fraud and scams, so I need to consider whether it ought to have intervened to warn Ms S when she tried to make the payment. But considering the value and nature of the payment, in the context of Ms S's account, I don't think there was anything that should have flagged to Starling that Ms S might be at risk. The payment was, in the context of the payments Starling sees every day, not so high as to be remarkable. And while it was moderately high in the context of Ms S's usual account usage, it's not uncommon for people to make such one-off payments, and the payment was authorised using Ms S' registered device. So, I don't think Starling missed an opportunity to intervene. And Ms S only notified Starling of the scam after the payment had been made, so given that it was a card payment, there was no way that Starling could have stopped the payment from leaving her account at that stage.

Because of this, even though I accept Ms A was the victim of a scam, I don't think Starling could have done anything to prevent her loss and I'm satisfied its decision not to refund the money she lost to the scam was fair.

I have though considered whether Starling could have done more to try to recover the money Ms A lost once it was clear that she was the victim of a scam.

Chargeback is the way in which payment settlement disputes are resolved between card issuers and merchants. In certain circumstances the process provides a way for Starling to ask for a payment Ms S made to be refunded. There is no obligation on a card issuer to raise a chargeback, nor does the raising of one guarantee a refund for the card issuer's customer. But I would consider it good practice for a chargeback to be attempted where the right exists and there is a reasonable prospect of success. But in this case the payment Ms S made was to a payment processor, and so the service paid for – the transfer of funds – had been provided by that processor. As a result, I don't think there would be any reasonable prospect of success for a chargeback in this case. I therefore don't consider it unreasonable that Starling did not attempt one.

I appreciate that this will be very disappointing for Ms S, and I can entirely understand why she feels the way he does, but with all I've seen I don't consider that I can fairly say Starling should be held liable for Ms S' loss or that it could have done more to recover her funds.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 16 May 2024.

Sophie Mitchell
Ombudsman