

The complaint

Mrs W complains that Starling Bank Limited (Starling) is refusing to refund her the amount she lost as the result of a scam.

Mrs W is being represented by a third party. To keep things simple, I will refer to Mrs W throughout my decision

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mrs W was called by a scammer (X). X claimed to be calling from the fraud department at NatWest where Mrs S holds another account and explained Mrs W's account had been compromised. X knew personal information about Mrs W such as her name, contact information and transactions on her account.

X was able to make a payment from her NatWest account to a well-known retailer which Mrs W could see leaving her account. X claimed this was a fraudulent transaction.

X also sent Mrs W a text message which appeared in an existing NatWest message thread.

X explained to Mrs W that freezing her account would not be an effective way of protecting her funds from the scam and the funds would need to be moved to a secure banking app. X said the funds would have to be moved in smaller payments, so they were not flagged to the scammer.

To help with the process of protecting her funds X told Mrs W to download the remote access software AnyDesk so he could guide her. X persuaded Mrs W that they would need to open new accounts with World Remit and Kroo.

Mrs W tells us X then made payments from her account to her Starling account, World Remit and Kroo.

X then made payments from Mrs W's Starling account to other retailers advising Mrs W that the funds would be safe in those places and that she would receive a refund when she visited a NatWest branch to meet him.

At this point Mrs W started to have concerns and when her husband challenged X, X ended the call and was no longer contactable.

Below is a list of payments made in relation to the scam from Mrs W's Starling Account:

<u>Payment</u>	<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	19 December 2023	Lemonade Finance	Debit Card	£2,490.00
2	19 December 2023	Lemonade	Debit Card	£2,100.00

		Finance		
3	19 December 2023	Asda	Debit Card	£1,594.97
4	19 December 2023	Asda	Reversal	£1,594.97cr
5	19 December 2023	Apple Store	Debit Card (Declined)	£907.00
6	19 December 2023	Bck Giftcards	Debit Card (refunded)	£1,100.00
7	19 December 2023	Bck Giftcards	Debit Card (refunded)	£1,600.00

When Starling investigated Mrs W's complaint it found that it had missed an opportunity to intervene and that if it had intervened it would have been able to prevent any further loss from that point. It therefore refunded £2,726.71. Starling also paid Mrs W a further £100 compensation in recognition of the delays it caused. Mrs W remained unhappy with Starling's response.

Our Investigator considered Mrs W's complaint and didn't think it should be upheld. Mrs W disagreed, so this complaint has 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.

It has not been disputed that Mrs W has fallen victim to a cruel scam. The evidence provided by both Mrs W and Starling sets out what happened. What is in dispute is whether Starling should refund the money Mrs W lost due to the scam.

Recovering the payments made in relation to the scam

Payments 3 onwards were either recovered, reversed or didn't debit Mrs W's account. So, I am considering whether payments 1 and 2 could have been recovered by Starling.

The payments were made by debit card and when payments are made by card the only recovery option Starling has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

The payments were sent to a genuine business so it's likely that business would be able to show that the payments were made in relation to a service that it provided. With this in mind, a chargeback would not be successful.

I have also considered whether Mrs W should receive a refund for the payments she made into the scam under the Contingent Reimbursement Model (CRM) Code. But the CRM code doesn't cover payments made by debit card so it would not apply.

With the above in mind, I don't think Starling had any recovery options available to it for the payments made in relation to the scam.

Should Starling have reasonably prevented the payments made in relation to the scam?

While Mrs W didn't make the payments herself, she did authorise them, and by knowingly giving X the ability to access her account and make payments on her behalf, she gave her apparent authority for the payments to be made. So, we would treat these as authorised payments. So, the starting point here is that Mrs W is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Starling should have been aware of the scam and intervened when the payments were being made. And if it had intervened, would it have been able to prevent the scam taking place.

Starling has accepted that it should have intervened from payment 5 and refunded all the payments that followed, and I think this is fair.

The first two payments were not of such a significant value that I would have expected Starling to have concerns and Mrs W had recently verified her account as it had not been used in sometime, so Starling has reasonable basis to believe it was her making the payments.

It would not be reasonable for me to suggest that Starling should intervene every time one of its customers makes payments considered to be of a relatively low value to a genuine business.

I do agree that Starling should have intervened later in the scam at payment 5 but Starling has already recognised this and refunded Mrs W accordingly.

I don't think Starling is responsible for any of Mrs W's outstanding loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 24 October 2024.

Terry Woodham
Ombudsman