

The complaint

Mr C complains that Starling Bank Limited (Starling) is refusing to refund him the amount he lost as the result of a scam.

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

What happened

Mr C was looking on his mobile phone when he saw an advertisement for an investment company called Libra Investment Group (X). X appeared to be endorsed by trusted celebrities which gave Mr C confidence it was legitimate.

Mr C called X on the number advertised and provided his personal contact information and was told he would receive a call back from an investment manager. In the meantime, Mr C searched X online and found a legitimate looking website.

An account manager from X then called Mr C. X explained that he had experience in trading and started to build a friendly trusting rapport with Mr C talking about his own previous experiences.

Mr C was directed to download the remote access software AnyDesk, and to open an account with the trading platform MetaTrader4 where he was required to provide identification documents usually associated with opening such accounts. To fund the investment Mr C was also required to open a Coinbase account.

X explained it would be trading on Mr C's account and would take a commission from the profits that were made.

Mr C started making payments as requested by X from an account he held elsewhere before he made the payments from his Starling account.

Mr C was making a good return on his investment and his investment manager at X also changed. Mr C decided to make a withdrawal, but X told him he would have to make a payment in relation to commission first. He tried to make the payment from his Starling account, but it didn't go through, so he made the payment from another of his accounts held elsewhere.

After making the payment Mr C didn't receive his withdrawal and all communication with X ceased. Mr C then realised he had fallen victim to a scam. Mr C made the following payments in relation to the scam:

Date	Payee	Payment Method	Amount
4 August 2022	Coinbase	Transfer	£10.00
4 August 2022	Coinbase	Transfer	£10.00
5 August 2022	Coinbase	Transfer	£4,980.00
12 August 2022	Coinbase	Credit	£10.00

12 August 2022	Coinbase	Transfer	£10.00
16 August 2022	Coinbase	Credit	£106.32
16 August 2022	Coinbase	Transfer	£1,500.00
27 September 2022	Coinbase	Transfer	£5,000.00
24 October 2022	Coinbase	Transfer	£4,000.00

In my provisional decision sent in June 2024 I said:

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

Recovering the payments Mr C made

Mr C made payments into the scam via transfer. When payments are made by transfer Starling has limited options available to it to seek recovery. Starling did contact Coinbase, but no funds remained in the account.

With the above in mind, I am satisfied that Starling had no reasonable options available to it to recover the payments Mr C made.

Should Starling have reasonably prevented the payments Mr C made?

It has been accepted that Mr C authorised the payments that were made from his account with Starling, albeit on X’s instruction. So, the starting point here is that Mr C 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 Mr C made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The first two payments Mr C made in relation to the scam were of a low value to a legitimate business, so I don’t think it was unreasonable that these payments didn’t cause Staling to have any concerns.

However, Starling has told us that when Mr C setup Coinbase as a new payee he was given the following warning:

“Could this be part of a scam? Always verify who you are sending money to as you may not be able to recover these funds. A fraudster may tell you to ignore these warnings. Visit our website for scam advice.”

A link was then provided that gave more detailed scam warnings if clicked.

I think the above warning was reasonable at this time as Mr C was not making any large payments that would have caused Starling significant concerns.

The third payment Mr C made in relation to the scam was for the higher value of £4,980. This payment caused Starling concerns and it did intervene before the payment was released.

Starling has told us it asked Mr C the following questions and received the following answers. I will go through each in turn.

Question 1

“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 C answered from the options available “I understand”.

Given the circumstances I think Mr C answered this question truthfully. He was making payments in relation to an investment that he had chosen to make and was not reading the questions aloud or being told how to answer them. I don't think this statement would have been a sufficient warning.

Question 2

“Please tell us what this payment is for”

Mr C answered “Investments”. Mr C answered honestly, and I can't see that this would have acted as a warning for him not to continue.

Question 3

What are you investing in?

Mr C answered “Shares, funds, cryptocurrency, foreign exchange or pension”. Mr C answered honestly, and I can't see that this would have acted as a warning for him not to continue.

Question 4

How are you making this investment?

Mr C answered, “Via a crypto or currency exchange”. Mr C answered honestly, and I can't see that this would have acted as a warning for him not to continue.

Mr C was then presented with the following statement:

“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 C answered from the options available “I understand”. I think Mr C responded to this statement accurately and given Starling's experience I don't think the statement gave a reasonable warning to Mr C. By this time Starling knew Mr C was making a larger payment into an investment via a cryptocurrency exchange. This should have raised red flags with Starling prompting it to intervene in more detail.

Question 5

“Have you made an investment like this before?”

Mr C answered “Yes”. Mr C answered honestly, he had made two previous smaller payments, and I can’t see that this would have acted as a warning for him not to continue.

Question 6

“Have you paid into this investment account and/or scheme before?”

Mr C answered “Yes”. Mr C answered honestly, he had made two previous smaller payments, and I can’t see that this would have acted as a warning for him not to continue.

Question 7

“Have you paid this payee before?”

Mr C answered “Yes”. Mr C answered honestly, he had made two previous smaller payments, and I can’t see that this would have acted as a warning for him not to continue.

Question 8

“When did you last pay this person or company?”

Mr C answered, “In the last week”. Mr C answered honestly, he had made two payments the day before, and I can’t see that this would have acted as a warning for him not to continue.

Question 9

“Did you pay them from your Starling account?”

Mr C answered “Yes”. Mr C answered honestly.

Question 10

“Have you been given new bank details for this payee recently?”

Mr C answered “No”. Mr C answered honestly the payments details had not changed. Mr C was then presented with the following statement:

“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 ...”

Mr C answered from the options available “I understand”.

Given the circumstances I think Mr C gave an honest answer. The warning above did not cover the circumstances of the scam Mr C was experiencing at the time.

The scam Mr C fell victim to was relatively common at the time he made the payments and included red flags such as celebrity endorsements and the use of the remote access software AnyDesk. Starling would have been aware of similar types of scams, and I don’t think that with Starling’s experience the intervention outlined above went far enough. The answers Mr C gave to the questions Starling asked should have been seen as potential red flags and it should have prompted further. Had it done so I think Starling would have likely uncovered the scam and been able to prevent it.

Starling is therefore responsible for the payments Mr C made in relation to this scam from the third payment of £4,980 on 5 August 2022 onwards.

Did Mr C contribute to his loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances I don't think it would be fair to say Mr C contributed to the loss. I say this because Mr C had no previous experience in this type of investment and the research he did carry out didn't provide anything of concern. Mr C was lulled into a false sense of security by a business that went to great lengths to appear to be legitimate."

I gave Mr C and Starling Bank Limited time to respond.

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.

Mr C responded accepting my decision. Starling didn't respond within the allowed time. As Starling didn't respond with any further information for me to consider I see no reason to change the decision I came to in my provisional decision.

Putting things right

To put things right Starling Bank Limited should refund the payments Mr C made in relation to the scam from the third payment of £4,980 on 5 August 2022, less any credits received.

Starling Bank Limited should add 8% simple interest to the amount it pays Mr C from the date the payments were made until it makes the refund (less any lawfully deductible tax).

My final decision

I uphold this complaint and require Starling Bank Limited to put things right by doing what I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 August 2024.

Terry Woodham
Ombudsman