

## **The complaint**

Mrs S complains Starling Bank Limited “Starling” refuses to refund her for transactions on her account she says she didn’t authorise.

## **What happened**

The facts of this case are well known to both parties, so I won’t repeat them in detail here.

In summary, Mrs S says her phone was stolen from her on 3 August 2023 while sitting in a pub with a friend. She says she replaced the phone and SIM card and disconnected her apple account from the stolen device. On 19 August 2023, while on holiday in Spain, she woke up to a message from another bank saying that her account had been upgraded. As she hadn’t made this change herself, she checked all her accounts and saw multiple transactions and activity on across all her accounts which she hadn’t authorised. In relation to her Starling account there were two faster payments and a card transaction which Mrs S says she didn’t authorise.

Mrs S also complained about the service received from Starling following her complaint. She feels like her complaint wasn’t investigated efficiently, and the situation has caused her financial difficulty and a lot of distress and inconvenience.

Starling says the transactions in dispute were carried out via the Starling app and using her card details. So, it says even if someone else had access to her stolen device, this doesn’t explain how they were able to access her app to make the transactions. And Mrs S hasn’t complained that her card had been stolen, so this doesn’t explain how someone got hold of her card details. Starling state that even if these transactions had been completed by someone else via her stolen device, she had been negligent in not keeping her app details secure. So, it hasn’t agreed to refund her these transactions.

Our investigator considered this complaint and wasn’t persuaded that the transactions were authorised. She asked Starling for more specific information but wasn’t not satisfied that this evidence was provided. She also decided to award £100 compensation to Mrs S for the distress and inconvenience caused. Starling didn’t agree so the complaint has been passed to me for 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.

Generally speaking, Starling is required to refund any unauthorised payments made from Mrs S’s account. Those rules are set out in the Payment Service Regulations 2017. Mrs S said she didn’t carry out the transactions in dispute. So I must give my view on whether I think it’s more likely Mrs S did authorise the transactions or not.

Starling has provided evidence to show the two faster payments were made in the app, logged on via her passcode. It has also shown us that a fraud warning would’ve been shown

on screen in the app before making the payment. Starling says the first transaction was a smaller transaction of £195, so no further verification was required. The second transaction, for £1,970 required additional verification.

We asked for evidence to which device was used to make these transactions which I have now received. The evidence shows that the faster payments and approval for the card payment were all made on an iPhone 13 Pro which was registered to Mrs S's account on 8 August 2021. I understand this to be the device that Mrs S lost on 3 August 2023.

We also received information about the IP address used to make all the disputed transactions. I haven't seen evidence that this IP address is one which had been previously used by the consumer and it is registered to Dubai. Mrs S has provided evidence that she was in Spain at the time. Starling says IP address evidence is not reliable because it's possible to disguise the location of the activity, which makes the IP address information different to where it's happening. I do agree this is possible and that this evidence alone wouldn't be enough for me to uphold the complaint. But I have taken this into account alongside the other evidence available to reach my decision on what I think is more likely to have happened.

Mrs S's testimony has been consistent throughout that she had her phone stolen on 3 August 2023. She has provided evidence to show she bought a new phone and ordered a new SIM. And the evidence from Starling shows a new iPhone registered on the account from 5 August 2023 – which I believe to be her new device. She explained that she originally didn't report the theft to the police as she didn't have insurance so didn't need the crime reference number. But she has now done so as she believed Starling required this information for her claim. Mrs S maintains that she doesn't know the payee of the two faster payments, and she did not authorise the card transaction in dispute. Mrs S has also provided evidence that the fraudsters carried out unauthorised transactions on her accounts with other providers.

Starling says the transactions must have been carried out by Mrs S as the faster payments were done through her app, and the online payment required her card details. However, Mrs S explained that she had used her phone while in the pub to let her friend know she'd arrived, so I think it's possible someone shoulder surfed her entering her phone's passcode. And I've seen evidence that Mrs S's full card details including the CVV number could've been obtained from the Starling app. I don't know how someone else would've been able to access her Starling app, but Mrs S does recall receiving a suspicious message saying her iPhone had been found, and she unknowingly clicked the link. In any case, I am not required to uncover how a complex scam might have worked and all the steps that were taken. I am required to consider the evidence available to come to a decision on whether I think it's likely Mrs S authorised the transactions or not.

Starling's evidence shows the transactions were made and verified via the device that Mrs S says was stolen and it looks like they were all carried out in Dubai. So I think it's likely these transactions were not authorised by Mrs S.

Starling says Mrs S has been grossly negligent in failing to keep her account details safe and failing to report the stolen device to it sooner. The FCA have explained that in cases such as these, in order to make a finding that the consumer had been grossly negligent "*the customer needs to have shown a very significant degree of carelessness.*" This is a high bar and there must be enough evidence to show they didn't act reasonably for me to make a finding this point. Mrs S has explained that she didn't inform Starling about the theft sooner as she didn't believe anyone would be able to access her banking apps. She replaced the device and SIM quickly and re-installed the relevant apps. She also says she didn't write down any of her banking details on the phone or anywhere else. I've not seen any evidence

to persuade me she had been careless with her phone or her security details for her account. I think this has been an unfortunate situation where fraudsters took time and effort to target Mrs S to fraudulently take money from her accounts. And I'm not satisfied I've seen enough evidence to conclude she had been grossly negligent.

So overall, based on the evidence provided I am not persuaded Mrs S authorised the transactions in dispute, so I am upholding this complaint. This means Starling should refund her the transactions as unauthorised.

Our investigator considered the issue of compensation for the distress and inconvenience this situation has caused. She decided to award £100 in compensation. Neither party responded with any comments or evidence as to why this wasn't fair. So as this has not been disputed by either party, I see no reason to reconsider this.

### **Putting things right**

Starling Bank Limited should put things right as outlined below:

- refund the transactions in dispute and any associated fees, charges and interest
- add 8% simple interest from the date the transactions were made till the date they are paid back
- remove any negative information recorded against her as a result of any overdraft facility that the unauthorised transactions caused.

### **My final decision**

For the reasons outlined above, I am upholding this complaint. Starling Bank Limited should put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 13 January 2025.

Sienna Mahboobani  
**Ombudsman**