

The complaint

Mrs N complains Santander UK Plc (Santander) won't refund the money she lost when she fell victim to a scam.

What happened

Mrs N received a call from someone claiming to be from Amazon. They said there had been fraud on her account, and around £10,000 worth of iPhone orders had been placed. From what Mrs N has shown us, it appears an iPhone order was attempted/initiated. She also says the caller already knew personal information such as her address and the card linked to her Amazon account. So, she believed the caller was genuinely from Amazon. Unfortunately, they were actually a scammer.

The scammer directed Mrs N to download remote access software so they could talk her through making payments to Amazon (to be returned to her) and stopping the fraud. As part of the scam, Mrs N sent to payments from her Santander account to "M" – supposedly an Amazon manager.

Mrs N was also persuaded to set up three new accounts with electronic money institutes and to send money to those accounts from Santander. She was further persuaded to then send that money on to other payees who she was told were also Amazon managers. These are the payments she made from her Santander account as part of the scam:

Payment number	Amount	Initial recipient
One	£4,804.00	M
Two	£4,804.00	M
Three	£949.00	Mrs N
Four	£1,949.00	Mrs N
Five	£449.00	Mrs N
Six	£2,980.00	Mrs N
Seven	£949.32	Mrs N
Eight	£949.32	Mrs N
Total	£17,833.64	

Once Mrs N realised she had been scammed, she contacted Santander. It agreed to refund the first two payments as they fell under the scope of the Lending Standards Board's Contingent Reimbursement Model (CRM) code. But it didn't agree to refund the other payments. They don't fall under the scope of the code as it only covers payments to another person, and not payments sent on to your own account(s). Some further fall outside the scope of the code as they were sent by card – whereas only bank transfers are covered by the code.

Unhappy that Santander wasn't refunding her in full, Mrs N referred her complaint to our service. Our investigator upheld her complaint. In addition to the first two payments it had refunded in full, he should it should refund 50% of the remaining payments – less any amounts recovered or refunded from the other firms.

He thought Santander should have reached out to Mrs N about the second payment, as it looked concerning and unusual. If it had done, he was persuaded the scam could have been uncovered. But he also thought it was fair for Mrs N to share liability for her loss. He noted that, despite what Mrs N was told, her Santander account didn't show any fraudulent payments taken. He also thought what she was asked to do – sending funds on to new accounts, then also having to transfer them on again to different individuals – ought to have aroused her suspicion.

Santander initially appealed the investigator's outcome, but has now accepted it. But Mrs N doesn't agree. She thinks she should be refunded all, or at least more, of her loss.

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, for the reasons I'll go on to explain, I've reached the same overall conclusions as our investigator.

It's agreed that Mrs N authorised these payments, albeit due to being tricked by a scammer. That's relevant as the starting position under the Payment Services Regulations 2017 (PSRs) is that she is liable for payments she authorises. Santander has a duty to execute her authorised payment instructions without undue delay.

However, there are circumstances when it might be appropriate for Santander to take additional steps before processing a payment. Such as when there are grounds to suspect the payment presents a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account.

I agree with the investigator that, at least by the time Mrs N had sent two high-value payments to the same new payee, Santander ought to have had concerns about fraud. The account activity didn't look normal for Mrs N. So, I think it should have spoken to her to find out more about what she was doing.

If Santander had questioned Mrs N about why she was making these payments, on balance I do consider it likely the scam would have been unravelled. If it had spoken to her directly, I don't think Mrs N would have had any reason not to tell Santander what she was doing. And I think it would have found the scenario very suspicious. It would have been able to inform Mrs N that no fraudulent payments had been attempted/made from the account, and Amazon wouldn't be contacting her to send money to other accounts. So, I do think appropriate intervention at this point would likely have prevented her further losses.

While I therefore think Santander holds liability for this loss, I must also consider whether it would be fair to expect Mrs N to share liability alongside Santander. Having considered this point carefully, I think it would be.

I do understand why Mrs N was initially persuaded she was speaking to Amazon. It would be a scary call to get, and was designed to put her under pressure her to induce her to follow the caller's instructions. The fact the caller appeared to already know her personal details would have added weight to their claims. And it does appear they were able to provide some information or images to make it appear that fraud had been attempted.

However, particularly as the scam went on, I do think there were warning signs Mrs N ought to have considered. The first two payments (which have already been refunded) were sent to M. it looks as though Mrs N selected the payment reason that she was sending funds to her own account. The audit information suggest she may then have seen a confirmation of payee warning, explaining the payee didn't match the details she had entered. I think that arguably ought to have given her pause, as she's told us she thought she was paying an Amazon manager.

The remaining scam payments made from Mrs N's Santander account took place several hours after the first two payments. That gave her time to consider what she was being asked to do. The payments were initially sent to various accounts she was prompted to set up in her own name. I think it ought to have seemed odd that she needed to set up so many new accounts, rather than paying the money on to the same payee she had initially been instructed to pay.

Furthermore, Mrs N didn't lose the funds at the point of transferring them on from Santander – as the money was being sent directly to the accounts she had set up. It was only when she then transferred the funds on, supposedly to other Amazon managers, that the money was lost.

While the money was moved on promptly, and I think ought to still have been foreseeable to Santander had it intervened appropriately, it means Mrs N had to complete additional steps. Each of which meant there was further time for her to consider what she was doing and to question the instructions she was given.

While I can understand why Mrs N thought her Santander account was at risk, it's not clear to me why she would think that she would then need to set up so many new accounts. Even then, it seems odd that her funds wouldn't be safe in these new accounts, and so still needed to be transferred on to different names she was given for other Amazon managers.

I'm also conscious that, based on the records available, it's unclear that the Amazon account showed £10,000 in iPhone orders. The records Mrs N sent only shows one cancelled order. And it's unclear whether this may have been initiated using information provided during the call (as Mrs N mentions an OTP being sent from Amazon).

In all the circumstances, I do think Mrs N should share some responsibility for her loss – due to the warning signs she overlooked. So, I'm reducing the compensation I'm awarding by 50% to reflect this.

Putting things right

Mrs N has provided records to show all the funds sent to her own accounts, were promptly sent on and lost to the scam. Her records also show she was able to recover £0.91 from one of these accounts – and £949 from another.

Santander UK Plc has already refunded payments one and two, as set out in my table. It must now refund 50% of the outstanding loss from payments three to eight (so less the amounts already recovered/refunded from these payments). It must pay 8% simple interest per year on the refund amount, less any tax lawfully deductible.

My final decision

For the reasons given above, I uphold this complaint and direct Santander UK Plc to take the action set out above under the heading “Putting things right”.

Santander UK Plc must pay the compensation within 28 days of the date on which we tell it Mrs N accepts my final decision.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs N to accept or reject my decision before 22 March 2024.

Rachel Loughlin
Ombudsman