

The complaint

Mr I is unhappy Santander UK Plc (“Santander”) declined to offer him a refund after he reported being the victim of a scam.

What happened

The background to this complaint is well-known to both parties, so I won’t repeat it all in detail here. However, in summary and based on the submissions of both parties, I understand it to be as follows:

Between August 2022 and February 2023, Mr I made a number of payments, to different accounts, on behalf of a woman he believed he was in a genuine relationship with and who had told him she would pay him back. Mr I had met this woman, who for the purposes of this decision I will refer to as “Ms T”, via an escort service he had found online.

Mr I and Ms T had exchanged contact details and they began to contact each other directly, rather than through the escort agency. Mr I has said that they met up relatively frequently over an 8-month period. They went on holiday together twice and Mr I visited Ms T’s place of residence on numerous occasions.

During this period, Ms T regularly asked for money, and Mr I made a number of payments to accounts Ms T said were held by people she knew from his Santander current account and his saving account. I have detailed all of the payments that are subject to this complaint below:

Account	Date	amount	Payment to	Reason for payment
Account 1	31/08/2022	£1,640	Person A	Rent
Account 2	20/09/2022	£100	Person C	Food
Account 2	26/09/2022	£1,000	Person C	Rent
Account 2	26/09/2022	£200	Person C	Rent
Account 2	4/10/2022	£300	Person C	Suitcase
Account 2	13/10/2022	£300	Person C	Flights
Account 2	17/10/2022	£30	Person C	Food
Account 1	29/10/2022	£3,000	Person A	Trip abroad
Account 1	11/11/2022	£782	Person A	Flight
Account 1	20/11/2022	£2,750	Person B	Rent
Account 1	25/11/2022	£4,000	Person A	Hospital fees abroad
Account 1	25/11/2022	£4,000	Person B	Hospital fees abroad
Account 1	1/12/2022	£300	Person B	Border fees
Account 1	5/12/2022	£300	Person B	Pocket money
Account 1	12/12/2022	£80	Person A	Taxi

Account 1	13/12/2022	£150	Person B	Covid-19 test
Account 1	28/12/2022	£760	Person B	Rent
Account 1	13/01/2023	£4,350	Person B	Citizenship fee
Account 1	10/2/2023	£380	Person B	Flight
	Total	£24,442		

Mr I was given a number of different reasons for the payments, including that Ms T needed money for her rent, food, and daily living expenses. He was also told that she needed money for flight tickets to go to her home country and to arrange a funeral for a deceased family member. Mr I made these payments to three different accounts. Santander was able to recover £88.35 and return it to Mr I.

During the above period, Mr I also paid for holidays for himself and Ms T. He also paid for food, cigarettes, furniture, shopping trips and various meals but these payments do not form part of this complaint.

Mr I says Ms T told him she would pay back for all of the payments in the table above when she received the proceeds of a house sale in her home country. But when Mr I eventually declined to send Ms T any further funds, he was “blocked” and all further contact ceased.

At this point, concerned he had been the victim of a scam, Mr I raised the matter with his bank, Santander. Santander looked into what had happened to Mr I but it didn't uphold his complaint. It said it appeared that Mr I had been in some form of relationship with Ms T and therefore Mr I's circumstances amounted to a private civil dispute between him and Ms T and not a scam which the bank should become involved in now.

Unhappy with Santander's response, Mr I brought his complaint to our service. He said he believed he had been the victim of a scam and he thought Santander should have done more to protect him, and if it had done so, he wouldn't have lost his money.

One of our investigators looked into things but didn't uphold the complaint, in summary he said that based on what he had seen, it was difficult to evidence that Ms T had intended to deceive Mr I from the outset. And so, overall, our Investigator considered it reasonable for Santander to have considered Mr I's circumstances a private civil dispute between him and Ms T.

Mr I didn't agree with our Investigator's opinion. He asked why we had not contacted the police or questioned Ms T directly. He also stressed that Ms T had lied about the reasons she had needed money and about paying him back.

As an agreement couldn't be reached, the complaint was passed to me for a final decision.

Whilst waiting for a final decision, Mr I has made at least one further payment to Ms T.

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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards;

codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I'm also aware that Mr I has enquired on numerous occasions why we have not contacted the police or Ms T directly. To be clear, the role of this service is to look into the actions of Santander in order to decide whether it has treated Mr I fairly in declining to offer him a refund of the payments under discussion here. It is not to conduct an investigation into the activities of Ms T, conduct a criminal investigation or contact the police. If Mr I wishes to pursue this matter with the police, he will need to do so himself.

So, having taken all of the available evidence into account, I've reached the same overall conclusion as our investigator – for largely the same reasons. And I won't be upholding this complaint.

I appreciate that this is going to be extremely disappointing for Mr I, this is a significant amount of money, but I don't think it would be fair and reasonable for me to require that Santander offer him a refund now. I'll explain why.

Was Mr I the victim of a scam?

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that its customer authorises. And so, when Santander processed the payments now in dispute here, it was complying with Mr I's instructions to make the payments. It is not in dispute that, at the time, Mr I did wish to pay Ms T these amounts and there were no mistakes made - the money was sent to the correct account details. However, in order for me to decide whether Mr I is entitled to a refund from Santander, I firstly need to establish whether I think he has most likely been the victim of a scam.

I fully accept that Mr I now regrets the payments he made to Ms T. It's also understandable given the significant sums involved that Mr I feels he has been the victim of a scam. But not all cases where individuals have paid out significant sums are in fact fraudulent and/or a scam. In fact, there are several factors in this case that lead me to conclude that this wasn't a scam at all, and rather a series of payments that Mr I made in order to maintain his relationship with Ms T. I'll explain why in more detail below.

Mr I has told us that it was he who initiated contact with Ms T. I haven't been provided with the initial messages shared between them as they are no longer available. However, I have seen copies of the messages shared between Mr I and Ms T from June 2022 onwards. It is during this period that Mr I agrees to pay for Ms T's rent and some other things. Mr I seems to have willingly made these payments when asked and I haven't seen any evidence that persuades me that Mr I was pressured into making these payments. He was told the payments were to pay for Ms T's food and rent and I haven't seen anything that suggests the funds sent were used for any reason other than the one agreed. And so, it would be difficult for me to conclude now that Mr I was deceived into making these payments from the outset. Mr I appears to have been willing to make these payments in order to maintain his

relationship with Ms T. Ms T also makes it clear during this period, specifically in reference to the discussions surrounding time spent on holiday, that her time must be paid for.

I do accept that by November 2022 the reasons for the requests for money were increasing and becoming less plausible. However, I still don't think that this necessarily means that Mr I has been the victim of a scam. It's not possible for me to speak with or cross-examine Ms T and so it's not possible to ascertain now, how these funds were being spent. It does seem unlikely they were being used for the exact reasons she says. However, as I have said above, regardless of what Ms T said the payments were for, I'm satisfied that Mr I would've continued to make payments to Ms T in order to maintain his relationship with her and for this reason, he would've made the payments regardless. It's clear from the later messages that Mr I was expecting some form of commitment from Ms T. And, whilst I appreciate that Mr I has told us that there was an agreement in place between him and Ms T for the money to be repaid, and I can see this from the messages shared between them, I still don't think this means Mr I has been the victim of a scam. It would simply mean that he has a genuine dispute with Ms T about the repayment of various loans that now have gone unpaid.

There are also a number of other factors in the circumstances of this case that don't carry typical hallmarks of a scam. Ms T appears to be using her real name and address. It is not typical for a fraudster to be so easily traceable or for them to use legitimate documents or invite their victims to their genuine place of residence - where they could be traced in the future should criminal prosecution be an option.

However, most importantly, even if I were to be persuaded that Mr I had been the victim of a scam, which for the avoidance of doubt, I'm not. I still don't think I could fairly ask Santander to refund the money Mr I lost. This is because even if I were to be persuaded that Santander should've intervened and spoken to Mr I about the payments, I still don't think this would've made a difference or stopped Mr I from making them.

I say this because, as part of his investigation, our investigator questioned Mr I as to what he would have told Santander had he been questioned about the payments he was making. Mr I has said he would've told Lloyds that he was making payments to a woman who he was in a relationship with who was having a family emergency abroad. He said he wouldn't have told Santander that Ms T was an escort. Mr I would also have been able to tell Santander he had known Ms T for around 8 months, they regularly met in person and had been on holiday together.

Having been told this information, there would've been no reason for Santander to prevent the payments from taking place. The payments were being authorised by Mr I for what appeared to be a legitimate reason and there would have been no reason to suspect that Mr I was about to fall victim to a scam. And crucially, even after Mr I reported that he had been the victim of a scam to Santander and after he had referred his complaint to this service, he continued to make payments to Ms T. So, it would be difficult for me to now reasonably conclude that any intervention from Santander would've have stopped him making any further payments. Mr I continued to do so even after he reported the scam himself.

I realise that my decision will be disappointing for Mr I. I'm sorry to hear about the situation he has found himself in and I don't dispute that he has likely been treated poorly by Ms T. He may well have grounds for a legitimate civil claim against her. But that doesn't now mean that his circumstances meet the high legal threshold for fraud or that Santander have done anything wrong in processing the payments on his behalf.

Overall, I'm not persuaded that Santander could've prevented these payments from leaving Mr I's account or that it has treated him unfairly. And so for these reasons, I can't fairly or reasonably ask Santander to refund the money Mr I lost now.

My final decision

For the reasons set out above, my final decision is that I don't uphold Mr I's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 8 March 2024.

Emly Hanley Hayes
Ombudsman