

The complaint

Mr L complains about Santander UK Plc.

He says that Santander didn't do enough to protect him when he became the victim of a scam and would like it to refund him the money he has lost.

What happened

The details of what happened are well known to both parties, so I won't repeat them in detail, but in summary, Mr L came across an advert on Facebook for an app which could generate passive income via investing in cryptocurrency.

Mr L downloaded the app, but it wouldn't work – but soon received a phone call saying the app was full and Rockchain FX was the new platform.

Mr L was persuaded to invest, and made the following payments from his account

Date	Payee	Payment type	Amount
12/01/2023	Finance Academy	Card	£884.83 (plus £26.10 FX fee)
18/01/2023	Wise Trading Academy	Card	£206.47 (plus £6.09 FX fee)
08/02/2023	Wise Trading Academy	Card	£2,082.82 (plus £61.44 FX fee)
		Total	£3,267.75

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, I've decided not to uphold Mr L's complaint for broadly the same reasons as our Investigator. I know this will be disappointing for Mr L, so I'll explain why.

It isn't in dispute that Mr L has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

In broad terms, the starting position at law is that a banks, electronic money institutions (EMI's) and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr L authorised the payments in question – so even though he was tricked into doing so and didn't intend for the money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, Santander should also have taken proactive steps to identify and help prevent transactions – particularly

unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether Santander acted fairly and reasonably in its dealings with Mr L when he authorised payments from his account or whether it could or should have done more before processing the payments.

Having considered the payments Mr L has made, I'm afraid I don't think that any of the individual payments were significantly unusual or uncharacteristic enough for Santander to have first got in touch before processing the payments on request.

I understand our investigator mistook some credits into Mr L's account as debits – and that they said the payments were less unusual because of them. They say that the payments in are unusual for their customer. But even without these payments being taken into account, I still don't think the payments were high enough for Santander to have needed to become involved. The highest payment was just over two thousand pounds, and while this is a large sum of money, it is not unusual for individuals to make payments of this size – and as I've explained above, businesses can't be involved in every transaction of this kind.

I am very sorry for the situation Mr L now finds himself in – I know that he has lost a lot of money. But this is the fault of the scammers themselves, not Santander and I can't ask Santander to refund him the money he has lost when I don't think that it has done anything wrong.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 13 June 2024.

Claire Pugh
Ombudsman