

## **The complaint**

Ms B complains that Santander UK Plc (“Santander”) won’t refund over £7,000 she lost to an investment scam beginning in April 2023.

The details of this complaint are well known to both parties, so I won’t repeat everything again here. Instead, I will focus on giving the reasons for my 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- It isn’t in dispute that Ms B authorised the disputed payments she made from her Santander account. The debit card payments were requested using her legitimate security credentials provided by Santander, and the starting position is that firms ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I’ve considered whether Santander should have done more to prevent Ms B from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.
- I appreciate that overall, Ms B has lost over £7,000 which is a significant amount of money. But this amount wasn’t paid in one large or ‘out of character’ transaction. It was spread across four smaller increments over the space of a month which, in my judgment, would not have appeared particularly unusual or out of character when compared with Ms B’s spending history. From what I can see, there weren’t any warnings published by the FCA or IOSCO at the time about any of the merchants Ms B paid either. And the largest amount she paid in any one day didn’t ever exceed £3,000.
- So, having considered the circumstances of the payments Ms B made, I don’t think any of them would’ve indicated a heightened risk of financial harm. They had no other hallmarks that would commonly be associated with scam payments (such as several payments being made to the same payee in quick succession, for example). Therefore, I’m not persuaded there was anything in these circumstances that ought reasonably to have triggered Santander’s fraud monitoring systems, or that would’ve required it to reasonably provide a scam warning.
- Ms B has said that she was dealing with a severe mental health decline at the time, and that Santander should’ve done more to protect her as she was in a vulnerable state. I’m sorry to hear about the difficult time Ms B was going through. She says that Santander would have been aware of her vulnerabilities, but apart from showing it was aware that she’d fallen victim to a previous scam, I’ve not seen any evidence to demonstrate that

Santander was on notice that she was a vulnerable person.

- Even if the bank was aware of her mental health challenges, I've not seen evidence to suggest that she lacked capacity to make her own financial decisions. So I don't think Santander was under any obligation to put extra measures in place as a result, or that it shouldn't have allowed her to make any payments, for example, particularly when its primary duty is to promptly execute the payment instructions it receives from its customers. And as I've set out above, the payments were not unusual enough that I would have expected Santander to have stopped them, even if it was aware of her mental health conditions.
- I note that Ms B's representatives have referenced Santander's obligations under the CRM Code. However, the Code only applies to authorised push payments, and so wouldn't cover the disputed debit card payments Ms B made as part of this scam. Santander are therefore under no obligation to consider reimbursing the money Ms B lost under the CRM Code.
- It isn't clear if Santander pursued a chargeback claim for any of the payments Ms B disputed. But even if it didn't, I don't think this would've made a difference to Ms B's prospects of recovering her money. There are very limited options for chargeback claims on payments that have gone to any type of investment, and I've not seen any evidence to suggest that she would've had any reasonable prospect of a chargeback claim succeeding in these circumstances. So I don't think there was anything more Santander could've done to try and recover the money.

I appreciate this will likely come as a disappointment to Ms B, and I'm sorry to hear she has fallen victim to a cruel scam. However, I'm not persuaded Santander can fairly or reasonably be held liable for her loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

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

Jack Ferris  
**Ombudsman**