

The complaint

Mr B, via a representative, complains that Santander UK Plc (“Santander”) have failed to refund the money he lost as part of an investment scam.

What happened

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

In summary though, Mr B was contacted via a messaging service about a potential investment opportunity. Mr B joined this group and was introduced to a scam company that I will call C.

C then persuaded Mr B to send funds to a crypto exchange via faster payments, these funds were then used to purchase crypto and were then sent on to C.

Mr B made three payments

- £20,000 on 23 May 2023.
- £5,000 on 12 June 2023 and
- £20,000 on 14 June 2023.

Mr B also made payments from a different account provider to C. I will call this other provider D.

When Mr B attempted to withdraw the profit that he could see on B’s ‘platform’, but he was told that he had to pay additional fees. At this point Mr B realised that he had been scammed.

Mr B asked Santander to refund these payments, as he believed Santander should have done more to prevent him from being scammed in the first place. Santander did not agree with this.

One of investigators looked into this matter and he thought that Santander had asked appropriate questions as it spoke to Mr B before each transaction. He did not think that Santander needed to do anything more and therefore that it did not need to refund the transactions in question

Mr B did not agree with this and therefore his complaint has been passed to me to issue a 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 Mr B authorised the disputed payments he made from his Santander account. The payments were requested by him using his legitimate security credentials provided by Santander, and the starting position is that Santander 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 Mr B from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

Santander intervened on three occasions and had conversations with Mr B via phone call. During these calls Mr B highlighted that he was investing directly with the crypto exchange and that he had used that particular exchange in the past. He also confirmed that he had made a large withdrawal in the past and had spoken to other investors. These answers coupled with the fact that the same crypto exchange had been used by Mr B a year before means that I think that these interventions were sufficient.

That said, even if Santander had asked more probing questions and provided crypto warnings I don't think that this would have stopped the scam. I say this because of the answers that he gave during the call with D when he confirmed that he was not going to send the funds on to a third party, had not been contacted about an investment and was investing on his own behalf. I also note that D did provide a crypto investing warning. Yet despite this, Mr B carried on sending funds to C.

So overall, I think that Santander intervened appropriately and even had it intervened further I don't think the scam would have been stopped.

I note Mr B's representatives comments in relation to Mr B being vulnerable but there is no indication that Santander were aware of Mr B's medical issue and based on the phone calls I don't think that it should have been apparent to Santander at the time of the scam.

I've also thought about whether Santander could have done more to recover the funds after Mr B reported the fraud.

Santander are also under no obligation to refund the money to Mr B under the Contingent Reimbursement Model (CRM) Code. This is because the Code does not apply to transfers which the payer has effectively made to themselves, or to accounts held in other countries. So, I don't think that Santander could have recovered the funds.

I appreciate this will likely come as a disappointment to Mr B, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that Santander can fairly or reasonably be held liable for his 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 Mr B to accept or reject my decision before 7 August 2024.

Charlie Newton
Ombudsman