

The complaint

Mr G has complained that Santander UK Plc (“Santander”) failed to warn him that he might’ve been falling victim to a scam before him allowing to make a payment.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mr G has used a professional representative to refer his complaint to this service. For the purposes of my decision, I’ll refer directly to Mr G, but I’d like to reassure Mr G and his representative that I’ve considered everything both parties have said.

Mr G has complained about two separate payments that he made from his Santander account to two different companies. In this decision I’ll only focus on the payment of £10,000 that Mr G made in May 2018. I’ve written to Mr G separately about the other payment.

Mr G says that he sent £10,000 to a company, which I’ll call “H”, in May 2018. He says that Santander didn’t ask him any questions about the payment or show him any warnings. H went into liquidation in 2023 and Mr G therefore lost the funds he’d sent to it. Mr G now says that as a result of H’s failure, he’s been the victim of a scam which had always intended to defraud him out of the funds he thought he’d invested.

Mr G made a complaint to Santander. In that complaint he said that he didn’t think Santander had fulfilled its duty of care by monitoring his account and looking out for signs that he might’ve been at risk of financial harm. He said Santander should’ve questioned him as to where the payments was being sent, and the purpose of it.

Santander didn’t uphold Mr G’s complaint. It said that the situation appeared to be a civil dispute between Mr G and H, rather than a scam. Mr G remained unhappy so he referred the complaint to this service. To put things right he explained he wanted his initial investment to be refunded by Santander along with 8% interest and £,1000 in compensation.

Our investigator considered everything and didn’t think the complaint should be upheld. She explained that even if Santander had intervened and asked Mr G more questions about the payment, it’s unlikely Santander would’ve been concerned about his answers because it appears the company and investment at the time were legitimate. So she didn’t think Santander was responsible for putting anything right.

As Mr G didn’t accept the investigator’s opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Mr G but having considered everything I'm afraid I'm not upholding his complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mr G authorised this payment from leaving his account. It's accepted by all parties that Mr G gave the instruction to Santander and Santander made the payment in line with that instruction, and in line with the terms and conditions of Mr G's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

Our investigator requested information from Mr G to establish what had happened around the time he made the payment to H. She wanted to understand what Mr G was promised, any literature he received, any correspondence that had taken place, and what Mr G had done to satisfy himself that he was dealing with a genuine company.

Mr G says he received literature and brochures directly from H but he hasn't been able to provide copies of anything. He's also said that he wasn't given a cover story or asked to download anything by the company offering the investment, and he only realised he'd been scammed when he stopped receiving interest payments around July 2018, at which point he contacted the company and was informed it had gone into liquidation.

Having considered everything I'm afraid I'm not persuaded that Mr G has been the victim of a scam. Whilst I don't underestimate how distressing it was for Mr G to find out he'd lost a lot of money, Mr G hasn't provided any evidence that supports his allegation that the money he's lost was the result of a scam.

Although the company Mr G invested in has since gone into liquidation, this wasn't the case at the time Mr G invested. I've seen a certificate of investment provided by Mr G, and in the absence of any other details or evidence I'm satisfied that this was a genuine company and a genuine investment.

Santander hasn't been able to tell us whether it gave Mr G any warnings before payment was sent. But that's not surprising, since it happened over six years ago. In any case I've considered the situation as though Santander *didn't* intervene at all, to understand whether this would've made a difference to what happened.

Even if Santander had done more and intervened before sending Mr G's payment, I don't think that would've changed the outcome here. I say this for the reasons I've already explained; even if Santander had given Mr G a warning about the risks of scam investments, or probed Mr G on the company he was sending the payment to, or the reason for it, Santander would've most likely uncovered that Mr G was making a payment to fund a genuine investment.

So despite any interventions it could have carried out, I don't think Santander would've uncovered that Mr G was at risk of being scammed, so I don't think it would've refused to send the payment in line with Mr G's instruction. And because I think the funds were more likely lost as a result of a failed investment rather than a scam, Santander couldn't have prevented that and nor is it responsible for that.

Recovery of the funds

Santander didn't try to recover the funds in question as it treated them as a failed investment rather than a scam. And I think that's reasonable in the circumstances, so it doesn't need to do anything else here.

I'm very sorry that Mr G has lost this money I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold Santander responsible for the losses Mr G has experienced as a result of the liquidation of H.

My final decision

I do not uphold Mr G's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 September 2024.

Sam Wade
Ombudsman