

The complaint

Mr M complains that Santander UK Plc, trading as Santander, failed to protect him from becoming the victim of a scam and did not appropriately warn him about several payments he made from his Santander account. To make things right Mr M would like to be compensated for his financial loss.

What happened

Mr M's complaint has been brought by a professional representative. As the account is in Mr M's name, I'll refer to him throughout the decision.

In September 2023 Mr M heard about an investment opportunity. He was added to a messaging app chat group run by a company, who I will call C, who claimed to be running an AI cryptocurrency trading platform. In the chat group a representative of C explained the opportunity and how to get involved to Mr M and other "investors". Mr M had seen a certificate from C, which looked authentic, suggesting they were a legitimate firm set up in the United States. Unfortunately, this was not a legitimate company but a scam.

Between 18 September and 20 November Mr M moved money from his Santander account to a legitimate cryptocurrency platform, who I will refer to as K, then from there on to C. Mr M made 32 payments, mainly for relatively small amounts of money such as £50 or £100. The final payments were larger than the others, with three payments totalling £610 on 15 November, and one payment of £630 on 20 November. In total the payments added up to £3426.

Initially Mr M was able to withdraw some money, which encouraged him to keep sending more. However, the scammers then closed the chat group and Mr M was no longer able to contact them or access his funds. It was at this point that Mr M became aware he had become the victim of a scam.

In January 2024 Mr M complained to Santander. He noted that Santander had a responsibility to identify and help prevent transactions that could involve fraud and be part of a scam. He noted that the payments were uncharacteristic and should have raised concerns, but that Santander had not intervened to block the payments or ask Mr M any questions about them. Mr M said he thought he should be refunded for the full amount of his loss, plus lost interest.

Santander responded to Mr M's complaint. In their response they noted that these payments were not covered by the CRM code because the payments were made to an account in Mr M's name at K before being moved to C. Because of this Santander noted they could not be held responsible for the loss and would not be upholding his complaint.

At this point Mr M raised his complaint to the Financial Ombudsman Service and one of our Investigators looked into it. While they noted that they were very sorry Mr M had fallen victim to a scam, they didn't think Santander could reasonably be expected to prevent this. In summary, they noted that the payments were made to a legitimate cryptocurrency platform, and to an account in Mr M's name and weren't particularly large or unusual. The payments

were spread out over several weeks, which would have given Santander comfort that Mr M was paying a trusted payee. Our Investigator also looked at recovery of funds. Because the funds had already left Mr M's account by the time Mr M raised his complaint to Santander, there would not have been any money left for Santander to recover, so they didn't think Santander acted unfairly in not attempting to recover the funds. Our Investigator noted that they were not upholding the complaint, and would not be asking Santander to provide a refund.

Santander did not respond to our Investigator's view. Mr M did and he did not accept it. He noted that he believed Santander could have taken more proactive measures to prevent his loss. He noted that while the individual payment amounts were relatively low the frequency and pattern of payments to a cryptocurrency platform should have suggested that they were at risk of fraud. He noted that he believed Santander should have intervened to provide a warning or check with him, in particular after the £630 payment on 20 November. He also noted that Santander should have attempted recovery of the funds and that they had not met their responsibilities under the CRM code.

Because Mr M did not accept the Investigator's view the complaint has been passed to me to decide.

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 aware that this will likely disappoint Mr M, 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 legal position is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (2017) and the terms and conditions of the customer's account. In this case it's not in question whether Mr M authorised the payment. It's accepted by all parties that Mr M gave the instruction to Santander and Santander made the payment in line with those instructions.

Santander have signed up to the voluntary Contingent Reimbursement Model (CRM) code. The starting principle of the CRM code is that a firm should reimburse a customer who is the victim of this sort of scam, except in limited circumstances. However, for the CRM code to apply the payment has to be made to an account held by another person (i.e. not between two accounts held by the same person). As Mr M initially moved his funds to an account with K in his own name the CRM code does not apply here.

However, irrespective of the CRM code, firms should fairly and reasonably have systems in place to look out for out of character or unusual transactions, or other signs that might indicate that its customers are at risk of fraud. I've carefully reviewed the information from both Mr M and Santander, and while I appreciate this will likely be disappointing for Mr M, I don't think Santander should have intervened to stop the payments. It is true that the payments were going to a cryptocurrency platform, and payments to these platforms are known to carry a higher risk of being part of a scam. However, the payments were going to an account in Mr M's own name, were relatively small amounts of money and not that unusual compared to other activity on his account. While I recognise that the final payments

were larger, they were not so large that, absent any other risk factors, I think they should have triggered an intervention. The cumulative amount of money, while I appreciate is a significant amount of money to lose to a scam, was not particularly alarming given the time taken to reach that value. As such I don't think any of these payments could reasonably have indicated to Santander that Mr M was at risk of falling victim to a scam.

Mr M fell victim to a horrible scam. I appreciate that the total amount of money was a significant loss, and the experience must have been very upsetting. But the fault for the loss lies with the scammer, not Santander. I can't ask Santander to refund him when I don't think they could have reasonably been expected to realise Mr M was at risk of fraud from the payments that they could see.

Recovery of Funds

I haven't seen any evidence that Santander acted to try and recover Mr M's funds after Mr M informed them he had been the victim of a scam. However, Mr M moved the funds into his own account at K then on to C, and I can't see that Mr M informed Santander that he had been the victim of a scam until several weeks after the last payments had already left his Santander and K accounts, so there would not have been any money left for Santander to recover. As such I think Santander acted fairly here.

My final decision

My final decision is I'm not upholding this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 January 2025.

Katy Grundy
Ombudsman