

## **The complaint**

Mr W complains that Santander UK Plc (“Santander”) have only offered to refund 50% of the funds he lost to an investment scam in January 2021.

The details of this complaint are well known to both parties, so I won’t consider 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 and have decided not to uphold it for the following reasons:

- It isn’t in dispute that Mr W authorised the disputed payments he made to his crypto wallets from his Santander account (where his funds were subsequently transferred on to the scammer). The payments were requested using his legitimate security credentials provided by Santander, and the starting position is that banks 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 W 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.
- It isn’t in dispute that some of the payments Mr W made were unusual given that they did trigger the bank’s fraud prevention systems and were automatically blocked pending further enquiry – such as those made on 20 January 2021 and 18 February 2021. Accordingly, it’s just a question of whether the bank went far enough in all the circumstances with its interventions.
- I can see that Santander spoke to Mr W on several occasions about the payments he was making. Santander explained to Mr W that it believed he was being scammed and warned him on 20 January 2021 that it would not be liable for any loss if he continues with the payment. Mr W was warned again in further calls on 18 and 19 February 2021, but he said he was convinced he wasn’t being scammed. He told Santander that it was his money and that he was happy to take the risk, and I note he also raised a complaint about not being able to make the payments.
- So, despite being warned several times that he was likely falling victim to a scam and that he wouldn’t get his money back, it’s clear that Mr W was adamant about making the payments regardless of the risk. As a result, I’m not persuaded there was anything more Santander could have reasonably done in these circumstances to prevent his loss, so I don’t think it would be fair and reasonable to expect it to pay anything over and above the 50% it has already offered to reimburse.

- It's also worth noting that, even if I thought Santander *could* have done more to prevent the scam, I still would not award anything higher than 50% of Mr W's loss in these circumstances, in recognition of his own contributory negligence due to him ignoring and failing to act on the warnings he was given by the bank.
- I'm also not persuaded there was anything more Santander could have done to recover the money Mr W lost either, given we know it was paid to his crypto wallets before being transferred on to the scammer. So, there would have been no reasonable prospect of recovering the money from the beneficiary accounts in these circumstances.

I appreciate this will likely come as a disappointment to Mr W, and I'm sorry to hear he has been the victim of a cruel scam. However, I won't be asking Santander to take any further action.

### **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 W to accept or reject my decision before 22 December 2023.

Jack Ferris  
**Ombudsman**