

## **The complaint**

Mr F complains that Santander UK Plc haven't refunded the money he lost to a scam.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. In October 2022 Mr F says he made a payment for £233.04 (\$250) using his Santander Mastercard credit card.

At the time he believed this to be to fund an investment opportunity with a business I'll refer to as 'F'. The payment showed on his account as going to 'E' who appear to be a payment processing firm. Mr F says he was given access to a platform through which he could see the progress of his investment. He also says he was pressured to make further investments. But when he was unable to withdraw his funds, he concluded he'd been scammed and reported this to Santander.

There was some back and forth between Mr F and Santander in relation to the disputed payment, but ultimately Santander said they were unable to raise a chargeback. Mr F complained and the matter was referred to our service. One of our Investigators didn't recommend that the complaint should be upheld. Mr F didn't agree with this outcome – he says he's been the victim of a scam and wants to recover his lost funds. As such, 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.

Having done so, I've reached the same outcome as our Investigator and for similar reasons. I know this will be disappointing for Mr F, so I'll explain why.

Firstly, I accept that Mr F has been the victim of a scam. The messages I've seen between him and the representative from 'F' closely follow what is commonly seen in scams. And its fortunate Mr F was cautious and didn't give in to the pressure put on him to make further payments. However, being the victim of a scam doesn't in itself automatically entitle Mr F to a refund from Santander as his credit card provider in these circumstances. It would only be fair and reasonable for me to direct that they refund him, if they have failed in such a way that I think they caused his loss or hindered its recovery.

It isn't in dispute that Mr F made the payment in question (albeit as a result of a scam). Santander should be alert to payments that are potentially being made as a result of a fraud or scam, but this also needs to be proportionate to the risk of each transaction and they can't be involved in all payments. I don't think Santander did anything wrong in processing the payment instruction without taking any additional steps. Given the sum involved and where it would have appeared to have been going, I don't think there was anything suspicious or

indicative of a potential scam such that Santander should have stopped the payment at the time or otherwise done more.

There are very limited chargeback options for payments that have gone to any type of investment. Mr F's claim was that he could not withdraw his funds from his trading account with F and that they were operating fraudulently. Mastercard's scheme does not consider claims about being unable to withdraw funds from trading accounts and the scheme doesn't provide dispute resolution options for victims of alleged fraud. Further to this the payment went to E who (as I've mentioned above) appear to be a payment processing firm. And there isn't a suggestion that the payment processed by E didn't end up with F. So, given there would be no reasonable prospect of a chargeback succeeding in these circumstances, I don't think Santander acted unfairly by not pursuing a chargeback claim on Mr F's behalf.

There is a further potential avenue for redress for payments made on a credit card under section 75 of the Consumer Credit Act 1974 (s.75). But in the circumstances here, I can't see that either Mr F raised a s.75 claim with Santander, or that this is something that they've considered and addressed in their complaint response. So whilst our Investigator set out some of the considerations for a potential s.75 claim, this isn't something I'm going to make a finding on in this decision. If Mr F has evidence to support a s.75 claim and would like Santander to consider the same, it is something he should take up with them in the first instance.

Mr F also made some comments about F (and others) continuing to chase him to make further payments. But I don't think this is something Santander are responsible for and so it isn't a basis upon which I could require them to do more. I'm sorry Mr F lost money to a scam. But as (in the context of this complaint), I don't think this is something Santander are responsible for, I'm not going to tell them to do anything further.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 February 2024.

Richard Annandale  
**Ombudsman**