

## The complaint

Mr A complains that Santander UK Plc ('Santander') won't refund him after he was the victim of a scam.

## What happened

Mr A is represented in this case but for ease I'll refer to Mr A throughout this decision.

### *What Mr A says*

Mr A says that in early 2022 he received a request to follow someone on a social media platform. I'll refer to this person as W in my decision. Initially Mr A and W built up a friendship but after around three weeks W started to discuss investing in cryptocurrency with Mr A. W showed Mr A screenshots and a link to a trading platform. On W's advice, Mr A made various transactions and could see his profit increasing. When Mr A wanted to withdraw funds, he experienced difficulties and was asked to make further payments for things like tax and a mining fee. He realised he was the victim of a scam and reported what had happened to Santander in June 2022.

I have set out below the payments Mr A would like Santander to refund. All transactions were to accounts in Mr A's name with another bank (recipient one) and an electronic money institution (EMI – recipient two). From these third-party accounts Mr A made payments to a cryptocurrency exchange and then on to the scammer.

Date	Amount	Recipient
07/02/22	£5,848	1
07/02/22	£105	1
07/02/22	£1,448	1
08/02/22	£20,000	1
08/02/22	£20,000	1
10/02/22	£10,000	2
10/02/22	£20,000	1
10/02/22	£10,000	1
12/03/22	£10,000	1

### *What Santander say*

Santander noted that the points Mr A's representative raised about the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) aren't relevant as it doesn't apply in this case. It suggested that Mr A contact the firms he transferred funds to. Santander also said that it had the right security measures in place.

Mr A was unhappy with Santander's response and brought a complaint to this service.

### *Our investigation so far*

The investigator who considered this complaint didn't recommend that it be upheld. He referred to a call that took place when Santander blocked Mr A's account on 10 February 2022 and said that even if Santander had blocked an earlier transaction Mr A would still have made the payment. This was because when Santander intervened Mr A said he was transferring funds to two third party accounts of his and didn't tell the truth about being helped with the investment. Although Santander gave fraud warnings, Mr A was clear that he wanted to make the payments. The investigator felt that if Mr A had been honest, Santander may have had concerns and asked additional questions.

Mr A didn't agree with the investigator's findings, so the complaint has been passed to me to decide. In summary, he said:

- The payments were out of character so Santander should have intervened irrespective of the fact the payments went to accounts in Mr A's name.
- Santander was concerned enough to intervene on 10 February 2022 but didn't go far enough. Mr A gave examples of questions Santander should have asked which would likely have uncovered the scam and said that Santander should have kept the block in place and required Mr A to go into a branch.
- Mr A did answer the question about whether anyone was helping him with the investment honestly, as he thought he was investing on his own behalf.
- The investigator's conclusion that further questioning wouldn't have made a difference was purely hypothetical. And Mr A's audible lack of interest in Santander's questions shouldn't have swayed Santander's decision to allow the payment to go through.

### **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.

The CRM Code doesn't apply in this case because it only applies to certain payments to another person and Mr A transferred funds to his own accounts.

In broad terms, the starting position in law is that Santander is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. It's not disputed that Mr A made and authorised these payments, although I accept that when he did so he didn't think his funds were at risk.

However, taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether Santander acted fairly and reasonably in its dealings with Mr A when he authorised payments from his account or whether it could and should have done more before processing them.

I don't think the first payments on 7 February 2022 were unusual or out of character given Mr A's previous account history. Just a few days before he had made a faster payment of £5,000 to an individual. He also said the reason for each payment was a transfer to his own account. Given these factors, I'm not persuaded there was any reason for Santander to be concerned.

It's possible that Santander should have intervened when Mr A made the first payment of £20,000 on 8 February 2022, given the value of it – rather than when it did so two days later. But I don't think I need to reach a finding on this given what I say below.

I have listened to the call between Santander's fraud team and Mr A on 10 February 2022. In this call Mr A confirmed there was no fraud going on and he'd just like to transfer funds to his own account. Mr A was frustrated and asked the Santander advisor to be quick. The Santander fraud advisor completed confirmation of payee checks on each proposed recipient (Mr A's bank and EMI accounts) and established that the payments were going to accounts in the name of Mr A. I believe the confirmation of payee matches would have reassured Santander that Mr A was making payments to accounts in his name that he had control of.

Santander went further though and checked that Mr A hadn't been told what to say to it and that nobody had asked him to make the payments or to download software. Mr A gave clear negative answers and confirmed that the payments were genuine. Given that Santander had confirmed the payments were going to Mr A's own accounts, I don't consider it needed to have asked further questions or probed more. The position would be different if Santander hadn't checked the payments were going to Mr A's own accounts with a bank and EMI (for example if the payments were to an individual or a cryptocurrency exchange). In those circumstances I'd expect Santander to have gone further and asked the kind of questions Mr A's representative has raised.

I've also noted that at the time of the scam transactions there were a lot of transfers between Mr A's accounts, including credits. And Mr A had previously made payments to a cryptocurrency exchange so transactions relating to investments weren't unusual for him.

So, I'm satisfied that if Santander had intervened sooner as it's arguable it should have, the outcome would have been the same and the scam wouldn't have been uncovered.

Mr A may wish to complain to the bank and EMI he transferred funds to if he hasn't already.

Overall, whilst I'm very sorry to hear about this cruel scam, I can't reasonably ask Santander to refund Mr A's loss.

**My final decision**

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 13 November 2023.

Jay Hadfield  
**Ombudsman**