

The complaint

Mr S complains that Santander UK Plc will not refund him money he says he lost as a result of an investment scam.

Mr S is represented by CEL Solicitors in this matter.

What happened

The circumstances of this complaint are well known to both parties, so I will not repeat them all again here in detail. But I will provide an overview of events below.

In summary, between January and February 2022, Mr S made several payment transfers to a cryptocurrency exchange I will refer to as G in this decision. These payments amounted to approximately £37,000. Mr S says, amongst other things, that he was duped by a third-party into making these payments which he thought were for a cryptocurrency investment. He says he later discovered he had been scammed and lost all his money.

When this matter was brought to Santander's attention, it refused to refund the money Mr S says he lost. Because of this, Mr S raised a complaint which he also referred to our Service.

One of our investigators considered Mr S's complaint and did not uphold it. Because Mr S did not accept the investigator's findings, this matter has been passed to me to make a decision.

What I have 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 for reasons I set out below.

But first, I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

- I find that the majority of the payments concerned in this case – relative to the activity on Mr S's account – were not significantly high enough to 'trigger' Santander's systems. Further:
 - These transactions did not follow an unusual or out of character pattern.
 - These transactions were made to a legitimate cryptocurrency exchange, G.
 - I cannot see any other reason as to why Santander should have flagged the transactions and spoken to Mr S before releasing them.

- I can see that Mr S's £10,000 payment to G did trigger Santander's systems:
 - In the course of a resulting telephone call, I find that Santander highlighted to Mr S features of investment scams and provided him with a robust scam warning proportionate to the information he provided. Despite hearing this, Mr S confirmed he wanted to go ahead with his payment anyway.
 - Mr S made no mention of third-party involvement despite Santander highlighting the risks to him about this.
 - I find that Mr S was able to alleviate the concerns Santander had about the payment – particularly given his answers during the call and the fact he had made previous undisputed payments to G.
- There is an argument to say that Mr S's £20,000 payment to G should have triggered Santander's systems:
 - However, if this payment had triggered and Santander intervened by speaking to Mr S before releasing it – I take the view that this would not have made a difference in the circumstances for the reasons I have set out regarding Santander's intervention in Mr S's £10,000 payment (see above).
- I acknowledge the point that Mr S says he has been a victim of a scam previously. However, it does not follow that there should be an expectation that Santander intervene in every payment Mr S wants to make. In any event, I have already dealt with the likely result of such an intervention above.
- I do not find that the Contingent Reimbursement Model code applies in this case.
- I do not find it likely that Santander would have been able to recover the money Mr S says he lost if it had attempted to do so.

Taking all the above points together, I will not be asking Santander to do anything further in this matter.

My final decision

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 September 2023.

Tony Massiah
Ombudsman