

## The complaint

Mr S and Mrs S complain that Santander UK Plc (Santander) won't refund money they lost in an impersonation scam.

## What happened

*What Mr S and Mrs S say:*

Mr S is a pensioner and says that in two days in September 2023, he lost £50,387 of his life savings in an impersonation scam.

Mr S says he visited a friend on 20 September 2023, and while there his friend received a call from someone who said he was a police officer. Mr S took over the call and was told he was to aid a major police investigation by purchasing gold bars and giving them to the police via couriers. He was told that if he didn't cooperate there would be severe consequences for him and his family. He was told he couldn't tell anyone as it would jeopardise the investigation and he would lose all the money spent. He said he took the 'police officer's' number and called 999 to verify it. This was completed, but the call details were masked.

The police officer took him (and his friend) to a jewellers and using his debit card, Mr S made one payment of £5,387 for a gold bar. He attempted three more payments – which were blocked by Santander and his card was then suspended.

He went back with his friend to his friend's house and handed the gold to a courier.

The next day, Mr S visited a branch of Santander who identified him and he spoke to the bank's fraud department while in the branch. His card was unblocked.

He then went back to the jewellers and made a further debit card payment of £30,650 – for more gold bars and jewellery. These were handed over to couriers. **(continued)**

The transactions were:

	Date/time	Payment	Amount
1	20 September 2023 – 18.21	Debit card/ chip and PIN	£5,387

2	20 September 2023 - 18.39	Debit card/ chip and PIN - declined	£16,161
3	20 September 2023 – 18.40	Debit card/ chip and PIN - declined	£11,374
4	20 September 2023 – 18.41	Debit card/ chip and PIN - declined	£5,387
5	21 September 2023 – 15.00	<i>Debit card/ chip and PIN</i>	£30,650
6	21 September 2023 – 18.55	Debit card/ chip and PIN - declined	£4,350
	<b>Total</b>		<b>£36,037</b>

Mr S says he made other payments on 21 September 2023 from two other banks for a total of £14,350 – he says these sums have been refunded by those banks.

When Mr S returned home in the evening of 21 September 2023, he told his family who said it must be a scam. He contacted the police who confirmed it was. He provided a statement to the police who gave a crime reference number.

Mr S and Mrs S say Santander should've done more to protect them. They said adequate questions weren't asked of Mr S at the time. And if the fraud adviser went further, it was clear Mr S was being subjected to a scam, especially considering his transaction history and the unusual amounts paid. For example, he said Santander should have known he would never buy jewellery without his wife being present and gone further when asking him about the wedding present (as he told the bank it was for a wedding).

He says further questions should've been asked due to his age and vulnerability.

Mr S says his mental health has been affected by what happened. He now questions every phone call and email he receives.

Mr S and Mrs S say Santander should refund the money.

#### *What Santander said:*

Santander didn't refund the money. The bank said that on the call with the bank's fraud team on 21 September 2023, Mr S confirmed he had tried to make the payments the previous day when he was present in the jewellers. Mr S said he was paying for the jewellery for a family wedding. He was asked if he was being forced into making the payment and he said he wasn't.

So for that reason, Santander didn't then go into a further conversation, which may have led to the block remaining on the account. But Mr S misled Santander and so the restriction on the account was removed.

After that, Mr S attended the jewellers again and made the further payment of £30,650, and another one for £4,350 at a different jeweller was then declined.

The payments were authorised by Mr S via Chip and PIN – and so the fraud claim couldn't be considered under the Contingent Reimbursement Model (CRM) code. The bank further said they couldn't consider a refund under the debit card scheme chargeback rules - as he had received the gold. And therefore, any dispute under the rules would fail.

Santander apologised for a comment made by one of their staff members on 26 September 2023, when (in declining the fraud claim) she explained the bank had investment options and asked if Mr S wanted to speak to a financial planning manager. That wasn't appropriate and the bank paid £150 compensation for that.

#### *Our investigation so far:*

Mr S and Mrs S brought their complaint to us. Our investigator didn't uphold it. He said:

- He hadn't been provided with sufficient evidence that there was a scam. All he could be certain of was that Mr S bought the gold with his debit card. But he couldn't see with any confidence what happened to the gold after that.
- But even if he could be certain the gold was handed over to the scammers, he considered Santander carried out sufficient checks in trying to protect Mr S from financial harm.
- On the call with the bank's fraud department, Mr S said he wanted to buy jewellery for a family wedding. He confirmed the rejected payments (on 20 September 2023) were legitimate and he wasn't being forced.
- So, Santander removed the block on Mr S' debit card. And Mr S then made the payment of £30,650.
- He didn't consider Santander should've intervened again when the further payment of £30,650 was made – based on what Mr S told the bank earlier. And even if the bank stopped the further payment, he was satisfied Mr S would've answered in the same way.

Mr S and Mrs S didn't accept this and asked that an ombudsman look at their complaint, and so it has come to me to do that.

#### **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 looking at this complaint, I have seen that in Mr S' police statement, he said the gold/jewellery was handed to the couriers as directed by the scammers. So in this decision, I assume he has suffered the losses. I can also appreciate how upsetting and disturbing Mr S' experience must have been for him.

But I must also make the point that I can only look at the conduct of Santander here, and whether the bank could reasonably have been expected to do more to protect Mr S and Mrs S. I also have no knowledge of the details or reasons as to why the other two banks refunded money to Mr S, and that has no bearing on my decision.

I'm sorry to hear that Mr S and Mrs S lost money in this cruel scam. It's not in question that Mr S authorised and consented to the payments in this case – as Mr S used his debit card and authorised the payments using Chip and PIN. So although Mr S didn't intend for the money to go to a scammer, they are presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the

Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators 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 make 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.

I need to decide whether Santander acted fairly and reasonably in its dealings with Mr S and Mrs S when Mr S made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to 'faster payments' made to a UK beneficiary – and in this case, the payments were made by debit card, using Chip and PIN.

The first important matter here is whether these were payments that Santander might reasonably have considered unusual, and therefore whether they should've held or stopped the payments.

I looked at the account history with Santander. It's fair to say that Mr S and Mrs S did make large payments of an amount like the first payment of £5,387. For example, I can see other large payments or cash withdrawals:

May 2023: £5,000.

February 2023: £1,780.

January 2023: £2,300, £1,000.

December 2022: £12,365.

November 2022: £3,000.

October 2022: £2,000, £5,000, £80,000.

Therefore, I don't consider Santander needed to intervene in the first payment – as it wasn't unusual. And - there's a balance to be made: Santander has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. In this case, I think Santander acted reasonably in processing the first payment.

But the crux of this complaint comes down to the second larger payment of £30,650 – and whether Santander should've done more.

Santander acted reasonably and correctly in stopping the three further payments (numbers two, three, and four) on 20 September 2023 – these were unusual. And they suspended Mr

S' card. Mr S then went to a branch of the bank the following day and having provided his ID, called Santander's fraud team from the branch – at 13.50. I listened to the call.

Santander: *have you tried to make a couple of card payments yesterday at a jeweller?*

Mr S: *yes and three were declined.*

Santander: *one went through for £5,387 is that right?*

Mr S: *yes, one went through and three were declined.*

Santander: *yes – the other three (were) £16,161; £11,374 and £5,387.*

Mr S: *correct.*

Santander: *Are these payments you were trying to make, were you in the jewellers?*

Mr S: *yes, I was there yesterday.*

Santander: *What were you trying to purchase?*

Mr S: *some jewellery – there is a family wedding.*

Santander: *Are you paying for the wedding jewellery are you. So this is all genuine? You are not getting forced into anything?*

Mr S: *no, no, no, no, no.*

The fraud handler then unblocked the card and said:

Santander: *If you go back to the jewellers you can make the purchases again, they will be allowed to go through this time.*

Mr S: *OK, lovely, thank you very much for that.*

I didn't get any sense of concern or anxiety from Mr S' tone, or that he seemed vulnerable. He seemed relaxed and confident. His testimony says he wasn't in the company of the 'police officer' in the branch – so he would've been able to say if there was a problem when on the phone to the bank but didn't.

So, I'm satisfied that Santander did what they needed to here:

- They confirmed Mr S' identity and that he went to the jewellers the day before.
- Mr S gave credible and confident answers to why he was making the purchases.

Mr S says he was vulnerable – but Santander told us there's no record of this being advised to them. So I can't reasonably expect the bank to act differently if they didn't know of that.

I also noted that Mr S says he returned home in the evening of 20 September 2023 but didn't contact Santander again until his visit to the branch in the early afternoon of 21 September 2023 – in the meantime he could've contacted the bank to advise them of the pressure he was being subjected to; and / or contacted the genuine police – but there's no evidence he did. I only say this as Mr S could've prevented or reduced his losses if he had done so.

The bank cleared the next purchase (£30,650) at the same jewellery store – on the basis of what Mr S previously told the bank. So I wouldn't consider the bank need to intervene again later that day. **(continued)**

**Chargeback:**

The chargeback process is a voluntary one – customers are not guaranteed to get money refunded, and there are strict scheme rules in place by the card schemes (e.g. Visa and Mastercard) which govern chargebacks. In general terms, the chargeback can provide a refund where a customer has bought goods or a service which isn't provided or is not what

was advertised. So – that isn't the case here, as Mr S says he received the goods and the jewellery was handed to the courier. So, this was an authorised payment and a chargeback had no reasonable prospects of success. That is consistent with what Santander told Mr S and Mrs S in the final response.

So, in summary, I consider Santander did what they needed to here. Mr S and Mrs S have lost a lot of money in a traumatic episode. They will therefore be disappointed by my decision, but I'm not going to ask Santander to do anything here.

But, having said that - based on Mr S' testimony and police statement, this would appear to be a criminal act and a matter for the police to pursue.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 30 May 2024.

Martin Lord  
**Ombudsman**