

The complaint

Ms K complains that Santander UK plc didn't do enough to help her recover her money once she'd reported 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.

Ms K joined an online dating site and began speaking to a man who I'll refer to as "the scammer". They communicated via the dating app for several weeks before exchanging numbers and communicating through WhatsApp. Ms K told him she was a single mother who worked and had two teenagers, the eldest of whom had gone to university.

The scammer shared details about his divorce and told Ms K about his business dealings, including the fact he'd been trading in cryptocurrency for seven years. The scammer told Ms K about different cryptocurrencies and trading principles before instructing her to open an account with a cryptocurrency exchange company I'll refer to as "C". He sent her a link to a trading platform which required ID verification and had a professional looking website.

The scammer told Ms K to first purchase cryptocurrency through a cryptocurrency exchange company and then load the cryptocurrency onto her online wallet. Between 23 April 2022 and 1 May 2022, Ms K made four payments totalling £7681.41 using a credit card connected to her Santander account.

Ms K realised she'd been the victim of a scam after several unsuccessful attempts to withdraw her money which resulted in her using her savings and borrowing money to pay various fees and taxes. She complained to Santander arguing it should have noticed there was unusual activity on her account and intervened when she tried to make the payments.

She also asked it to refund the money under the CRM code. Santander responded to the complaint on 15 July 2022 and Ms K complained to this service on 28 January 2023, but I've said I can't consider the elements of Ms K's complaint that are referred to by Santander in its final response letter dated 15 July 2022, because they were referred to this service out of time.

However, Ms K also complained to Santander about the fact it failed to raise a chargeback request and it responded to that on 30 August 2022, stating it did raise chargeback disputes and two payments of £721 and £1000 were successfully won at Pre-Arbitration stage. But it said the payments of £4,535 and £1,425.41 were declined as the merchants had evidenced the services had been provided. I've said we can consider this element of the complaint as it was referred to our service within the required time limits.

Our investigator was satisfied there was no reasonable prospect of a successful chargeback as Santander did raise chargeback requests for all four payments and the merchant defended the claim, providing evidence to show they'd provided the service they were required to provide. She also said there was no evidence to show Ms K asked Santander to

raise a claim under Section 75 of the consumer Credit Act 1974, but she didn't think it would have been successful.

Ms K has asked for her complaint to be reviewed by an Ombudsman.

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 conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Ms K has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

I've thought about whether Santander could have done more to recover Ms K's payments when she reported the scam to it. Chargeback is a voluntary scheme run by Mastercard whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed.

Our role in such cases is not to second-guess Mastercard's arbitration decision or scheme rules, but to determine whether the regulated card issuer (i.e. Santander) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of its cardholder (Ms K).

Ms K's own testimony supports that she used cryptocurrency exchanges to facilitate the transfers. It's only possible to make a chargeback claim to the merchant that received the disputed payments. It's most likely that the cryptocurrency exchanges would have been able to evidence they'd done what was asked of them. That is, in exchange for Ms K's payments, they converted and sent an amount of cryptocurrency to the wallet address provided. So, any chargeback was destined fail, therefore I'm satisfied that Santander's decision not to continue to pursue the chargeback request was fair. I appreciate Ms K was tricked into making the payments but for the purposes of Mastercard's scheme rules it would be considered that she received the service she paid for.

It's unclear whether Ms K asked for Santander to raise a Section 75 claim, but I've considered the issue for completeness and concluded there would be no valid claim under Section 75, as the debtor-creditor-supplier link is broken given Ms K paid a legitimate merchant. So, I don't consider it unreasonable of Santander not to pursue a Section 75 claim on Ms K's behalf.

Overall, I'm satisfied Santander took the correct steps after being notified of the potential fraud. I'm sorry to hear Ms K has lost money and the effect this has had on her. But for the reasons I've explained, I can't fairly tell it to do anything further to resolve this complaint.

My final decision

For the reasons I've 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 Ms K to accept or reject my decision before 6 November 2023.

Carolyn Bonnell

Ombudsman