

## **The complaint**

Mrs K complains that Santander UK Plc won't refund the money she lost when she was the victim of a scam.

## **What happened**

In August 2023, Mrs K received a phone call from someone who said they worked for Santander and asked her if she'd recently tried to make a large purchase from her account. When Mrs K said she hadn't, the caller said her account was then at risk and she needed to move her money in order to keep it safe. The caller then told her to download two applications onto her device and make a payment of £2,200 out of her Santander account using one of the applications, which Mrs K did. Mrs K then also made four other payments out of her Santander account to an account she held at another bank, as instructed by the caller.

Unfortunately, we now know the caller was a scammer. The scam was uncovered when Mrs K's daughter called her and suggested this was a scam. Mrs K then reported the payments she had made to Santander and asked it to refund the money she had lost.

Santander investigated but didn't agree to refund the money Mrs K had lost, as it said all the payments out of her account went to other accounts held in her own name and which she had access to. Mrs K wasn't satisfied with Santander's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think the payments made out of Mrs K's account were particularly unusual or suspicious, so didn't think Santander was required to intervene before allowing them to go through. And so they didn't think Santander should be required to refund the money Mrs K lost. Mrs K disagreed with our investigator, so the complaint has been passed to me.

## **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 four later payments made to an account Mrs K held at another bank all either never left her other account or have already been refunded by the other bank. And so I've not considered these payments further and have focused on the payment of £2,200 which has not yet been refunded.

Banks are expected to make payments in line with their customers' instructions. And Mrs K accepts she made the payment here. So while I recognise she didn't intend for the money to go to scammers, she did authorise the payment. And so the starting position in law is that Santander was obliged to follow her instructions and make the payment. So Mrs K isn't automatically entitled to a refund.

However, the regulatory landscape, along with good industry practice, sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think 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.

And so I've also considered whether Santander should have identified that Mrs K was potentially at risk of financial harm from fraud as a result of this payment.

But the payment wasn't for a particularly large amount, and there had been a number of payments for similar amounts both into and out of Mrs K's account in the months before the scam. The payment also didn't leave the balance of Mrs K's account at a particularly unusual level or use up a significant proportion of her available balance. And while it was made to an international payment service and an account she had never sent a payment to before, I don't think this, on its own, was enough to make the payment seem suspicious.

So I wouldn't have expected Santander to identify that Mrs K could be at risk of financial harm as a result of this payment. And I don't think it's unreasonable that it didn't take any further steps or carry out any additional checks before allowing it to go through, and just followed her instruction and made the payment.

Mrs K has mentioned the vulnerable position she was in at the time, due to her age and living situation. Any my intention isn't to diminish the difficulties the circumstances she mentioned can cause, and I don't underestimate the impact they had on her during this scam. But, from what I've seen, I don't think her circumstances were such that I would have expected Santander to have taken significantly different action. And so I still don't think Santander acted unreasonably in allowing the payment to go through.

I sympathise with the position Mrs K has found herself in. She has been the victim of a cruel scam and I appreciate that my decision will come as a disappointment to her. But, for the reasons I've set out above, I don't think Santander has acted unreasonably or that anything I would reasonably have expected it to do would have prevented this scam. And so I don't think it would be fair to require it to refund the payment she made.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 3 May 2024.

Alan Millward  
**Ombudsman**