

Complaint

Mrs O is unhappy that Santander UK Plc didn't do more to help her when she fell victim to a scam. Mrs O has been represented in bringing this complaint but for simplicity's sake, I've referred only to her throughout the text of this decision.

Background

In February 2020, Mrs O fell victim to a scam. She made a payment of £10,000 towards what she believed was a legitimate investment opportunity.

On realising that she'd fallen victim to a scam, she notified Santander. Santander's records suggest this was done in August 2021, although Mrs O tells us that she reported it verbally in March 2021. Its records show it attempted to contact her to obtain more information about her claim but was unable to do so. As a result, it closed her complaint in September 2021. It eventually refunded the money she'd lost in November 2022.

Mrs O, however, is unhappy that its offer doesn't include interest on the sum she lost to the scam or any award for distress and inconvenience. The case was looked at by an Investigator who didn't think Santander needed to pay anything further to her. She said that Santander appeared to have taken reasonable steps to investigate the complaint but hadn't been able to get in touch with Mrs O. She didn't think it would be fair to expect Santander to pay interest for that whole period.

She also didn't think it needed to pay her anything in recognition of the distress and inconvenience she suffered. She concluded that the distress was attributable to the actions of the fraudster, not Santander. Mrs O disagreed with the Investigator's view and so the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Santander has already agreed to pay a refund to Mrs O, so the only question I need to consider here is whether or not it needs to include interest or an additional award for distress and inconvenience.

In July 2021, Mrs O submitted a complaint form to this service in which she set out how the scam had taken place. One of our case handlers forwarded this document on to Santander to let it know that a complaint had been made and to ask it to investigate.

Santander needed to contact Mrs O to discuss the complaint. It needed her consent to begin recovery procedures by contacting the receiving bank – that is, the bank that managed the account controlled by the fraudster. However, it also needed to discuss the factual background to her case to allow it to decide whether a refund was payable.

I can see from its system notes that it attempted to do so on multiple occasions, used more

than one telephone number in an attempt to establish contact and appears to have contacted Mrs O by email too. It also wrote to her on 10 and 20 December 2021.

Mrs O says that there was no need for Santander to obtain her consent because she'd already given it when she reported the scam verbally in March 2021. Unfortunately, there's no record of this call taking place. Santander hasn't been able to locate a recording of it and the employee of the bank Mrs O spoke with didn't record any notes on its internal systems to show that the call took place.

While I don't doubt or disbelieve Mrs O when she says that she called in March 2021, this isn't supported by any of the other evidence available. I also find it unusual that Santander's system notes don't show any signs of Mrs O chasing the bank proactively or responding to any of its attempts at contact over a long period of time. In the circumstances, I don't find it fair and reasonable to expect Santander to pay Mrs O interest to cover the period between her reporting the scam and the eventual settlement date. I don't think it's fair to say that it was the cause of the delay.

For the same reason, I don't think it should be expected to pay additional compensation for distress and inconvenience. I recognise that Mrs O has been through a difficult time as a consequence of the scam. However, I have to bear in mind that the bulk of that distress wasn't caused by Santander, but by the fraudster. And while I accept that there was a long delay between Mrs O first notifying the bank of the scam and eventually receiving her refund, I think the effective cause of those delays was the difficulty Santander had in making contact with her to discuss the complaint.

Final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 21 September 2023.

James Kimmitt
Ombudsman