

The complaint

Miss J complains about the actions of Santander UK PLC when she was tricked into transferring money as a result of a scam.

Miss J is being represented by a claims management company but ease of reading I'll only refer to Miss J below.

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. In January 2022 Miss J met a third party online and after a few days they swapped mobile numbers. After a few weeks the third party started talking to Miss J about investing in crypto. It was suggested Miss J should invest through the same merchant as the third party and Miss J was sent a link to the website and told to set up accounts with the merchant and a genuine crypto exchange. Miss J then proceeded to make the following payments towards the scam;

Date	Payee	Amount
17/02/2022	Card payment to Crypto exchange	£500
01/03/2022	APP to crypto exchange	£5
01/03/2022	Withdrawal	£593.30
01/03/2022	APP to crypto exchange	£3,000
02/03/2022	Withdrawal	£3,244.68
02/03/2022	APP to crypto exchange	£6,500
02/03/2022	APP to crypto exchange	£1,500
03/03/2022	APP to crypto exchange	£7,200
03/03/2022	APP to crypto exchange	£4,600
04/03/2022	Withdrawal	£102.78
	Total outstanding loss	£19,364.24

When Miss J made the £4,600 payment this was stopped by Santander and a discussion took place about why she was making the payment before it was allowed to leave the account. After Miss J received the last withdrawal, she lost contact with the third party and became suspicious. So, she contacted Santander to try and get her money back. Santander considered the claim but decided not to offer Miss J a refund. So, she brought her complaint to this service.

Our investigator didn't think the complaint should be upheld. She said that Santander had asked Miss J on a call whether she had been contacted by third parties and asked to invest in crypto but Miss J said she was investing herself. So, she didn't think any further questioning from Santander would've made a difference here.

Miss J disagreed and asked for an Ombudsman's review. She said Santander should've stopped the earlier payments she made towards the scam as these were unusual and suspicious. And if it had then it would've been able to uncover the scam. She said the

discussion she had with Santander after it stopped the £4,600 wasn't effective and more questions should've been asked about why she was making the payment.

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 know Miss J feels strongly about this complaint and this will come as a disappointment to her, so I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I've taken into account the law, regulatory rules and guidance, relevant codes of practice, and what I consider good industry practice at the time (some of which Miss J has referred to in her submissions). Santander ought to have been monitoring accounts to counter various risks, have systems in place to identify unusual transactions, or other indicators, that its customers were at risk of fraud and, in some situations, make additional checks before processing payments, or declined them altogether, to protect its customer from possible financial harm from fraud.

It isn't in dispute that Santander has (and had) obligations to be alert to fraud and to act in its customers best interests. Here, Santander says it stopped the £4,600 payment but wasn't suspicious of any of the other payments. Miss J has said Santander should've done more to stop the scam both before and during the call and didn't effectively question her when it had the opportunity.

Miss J was told by the scammers to make a payment towards income tax if she wanted to make further withdrawals from her account. She attempted to make a £4,600 payment but this was flagged by Santander. When Santander spoke to Miss J she was asked if she had been contacted by any third parties and asked to invest in crypto (more than once) and whether she had control of the account she was moving the money to. Miss J said she was making the payment herself (more than once), no third parties had contacted her in relation to crypto and that she had full control of the account at the crypto exchange she was sending the money to. Miss J told Santander she was just buying, investing and then selling crypto for herself.

I've considered everything Miss J has said carefully but I don't think that Santander had a reasonable basis to believe Miss J was being scammed here. That's because this wasn't a typical investment scam where a customer is contacted by a scam investment company and given investment advice where the bank can ask questions about the investment company or conduct its own research into that company on the FCA database.

Unfortunately, here there was a romance scam element. It's clear that Miss J was under the influence of the third party throughout the scam and was persuaded by the withdrawals she had received. Miss J told this service she didn't conduct any further checks into the

scammers website because she trusted the recommendation of the person she met online. She added that after she made the first payment, she was no longer comfortable with the investment. But any fears she had were eased by the scammer when they allowed her to make a withdrawal (£593.30).

Later on in the scam she was happy to make a payment towards income tax so she could make further withdrawals after she was told by the third party she had met online this was normal. And she was happy to tell Santander on the call that she hadn't been asked to invest in crypto by any third parties and that she was doing all of this herself. So, I don't agree with Miss J that Santander didn't ask reasonable questions during the call. Santander responded to the answers it was provided with in the circumstances. And Miss J's answers meant that Santander didn't unreasonably think she wasn't being scammed.

As a result of the above, I'm also not satisfied that any earlier interventions by Santander would've made a difference here nor do I think this is a case where there was anything substantive enough to mean that Santander would've been justified in refusing Miss J's payment instruction (£4,600) altogether - or any of the others - and going against her wishes. I've considered whether Santander acted reasonably after it was made aware of the scam. The payments Miss J lost to the scam were sent to accounts in her name at a genuine crypto exchange. Miss J has confirmed that the money was then sent from her accounts to the scammers. So, I'm satisfied there wasn't any money for Santander to recover for Miss J here.

I appreciate my decision leaves Miss J in a difficult position and that she has lost a lot of money to this scam. And I'm sorry to hear about her circumstances and the effect the scam has had on her. But for the reasons I've explained, I'm not going to ask Santander to do anything more here.

My final decision

For the reasons given above, I'm not going to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 2 January 2024.

Mark Dobson
Ombudsman