

The complaint

Mr and Mrs W are unhappy Santander Bank UK plc hasn't reimbursed them for their loss after they were the victim of a scam.

What happened

In June 2020 Mrs W used a popular pet sale forum to find a seller with a 'cavapoo' puppy for sale. She sought advice from a friend who was a breeder and followed the advice given on the forum around what to look for and how to make sure she was dealing with a legitimate seller. She's said she contacted a few different breeders who were advertising over two months, but decided not to proceed with two when they asked her to meet outside of their homes, she wouldn't be able to see the puppy with their mother which she knew was important, or was asked to bring cash.

Mrs W spoke to another seller advertising a 'cavapoo' along with photos and details of the mother and father. On 11 June 2020, she viewed the puppy via video call and asked questions about it. The seller said they weren't a professional breeder, but their family dog had bred with their sister's family dog. They could answer Mrs W's questions and everything seemed in order so she paid a deposit of £300.

The next day she went to visit the breeder so she could see the puppy with the mother as she'd been advised she should. She saw them interact and saw that the mother was the breed she expected and the dogs were in a normal family home. She thought the puppy looked small, but was assured by the breeder this was because the father was small and they provided pictures to evidence this, which later turned out to be fake. Mrs W paid the remaining balance of £2,200 and took the puppy home.

A few days later Mrs W began to question the breed based on the way it looked, in particular, its size. She took it to a vet who confirmed the puppy was several weeks younger than she was told and carried out a DNA test which later confirmed it was a different breed to the one advertised. Mrs W took the puppy back to the breeder but they refused to take it back and ignored all further communication from her.

In June 2020 Mrs W contacted Santander to let it know she and Mr W had been the victim of a scam. It contacted the beneficiary's bank to let it know a scam had been reported and Mrs W has told us the beneficiary's bank froze the funds at this point. She's said it then contacted Santander to let it know this, but as it received no response it released the money back to the beneficiary. Santander has said it didn't receive any response from the beneficiary's bank.

Santander considered the dispute Mrs W had raised but ultimately felt the matter was a civil dispute and not a scam as Mrs W had received a puppy and had handed over the money to the breeder when she collected it. Because it didn't feel she'd been the victim of the scam it didn't feel it was responsible for reimbursing her and she'd need to address the matter with the seller directly.

I issued a provisional decision earlier this year and in summary said that:

- I was satisfied Mr and Mrs W had been the victims of a scam and weren't involved in a civil dispute. I thought it was clear they'd been deliberately misled into buying a different breed of puppy to the one they intended to buy. And I felt it was likely they were misled for the purpose of obtaining more money for the puppy.
- Whilst I accepted that in some cases where a consumer ends up with an item that might have value, even if it wasn't what they expected, we might consider their loss somewhat mitigated, I didn't feel this applied in this particular case. A puppy is a long commitment that comes with an ongoing cost. And there would've likely been an emotional burden as well as some practical difficulties in trying to rehome or give up a puppy, which ultimately Mr and Mrs W felt unable to do. It was clear the breed of the puppy they'd intended to buy was not what they ended up with, and that choosing a breed is one of the most important factors in choosing a puppy. I felt it was difficult to quantify exactly what loss they had suffered in this case. Whilst I'd no doubt the ownership of the puppy had brought some value to their lives, essentially they'd ended up with an ongoing responsibility and cost that would likely impact them for many years. So overall I felt it was reasonable to consider Santander responsible for the entire loss in this case.
- As I was satisfied the situation was a scam, I was satisfied the Lending Standards Board Contingent Reimbursement Model CRM Code of which Santander are signatories applied. The code sets out that unless Santander could establish its customer failed to meet a reasonable level of care under one or more of the listed exceptions when making the scam payment, it's liable for reimbursing it. In this case, the only relevant exception was whether Mr and Mrs W made the payment without a reasonable basis for believing the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.
- I didn't think Santander had established Mr and Mrs W didn't have a reasonable basis for believing the above. They used a widely used pet sale forum to find the puppy, followed the advice on the forum and got advice from a professional breeder around what to look for which included seeing the puppy interact with its 'mother'. They had a video call with the seller before handing over a deposit, asked about the puppies parents, were shown falsified evidence about the parents, and were provided a plausible story about the breeders being 'hobby breeders' rather than professionals. Mrs W visited the puppy in person before handing over the money, she saw it was in what appeared to be a normal family home and the cost was in line with other puppies of the alleged breed at the time. And, the appearance of the puppy wasn't so different that it seems it would've been obvious it was a different breed.
- As I didn't think any exceptions under the CRM code applied, I felt Santander should refund Mr and Mrs W for their loss in full. I also felt it should apply interest on this amount from 7 July 2020, as based on what I could see this is when Santander reasonably ought to have responded to Mr and Mrs W's claim.

Mr and Mrs W accepted my provisional decision but Santander didn't. It said:

- Although Mr and Mrs W carried out some checks, they should've asked for paperwork to prove the lineage of the puppy or consulted a vet before parting with their money.
- They had a puppy, so it offered a refund of 50% of their loss in resolution of the matter.

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 considered the additional comments from Santander, I'm not persuaded to depart from the findings set out in my provisional decision.

Should Mr and Mrs W have asked for more documentation?

When considering this particular case my role is to consider whether or not Mr and Mrs W had a reasonable basis for believing what they were told about the payment they were making. This is a different standard to whether or not they did everything they possibly could've to verify the breed or legitimacy of the puppy they were buying.

If they had been buying a puppy from a professional breeder, or they were buying a pedigree, perhaps it would be expected a reasonable person would ask to see some kind of paperwork to prove the lineage of the puppy. But they were aware they were looking to buy a family pet from what they understood was another family. I don't think a reasonable person in this scenario would expect to see paperwork proving the animal's lineage and I can't see this is something that is generally advertised in other sales of this kind.

I do accept that even for a young puppy a reasonable person would expect they'd received some treatment from the vet and so perhaps there might be some paperwork related to this. And in this case Mr and Mrs W have said they did ask about the details of any vet treatment the puppy received. The scammer advised they'd received worming and flea treatment, which doesn't typically come with vet paperwork, and although some vaccinations had been carried out it required a follow up 'booster' to be certified as fully vaccinated and so the paperwork couldn't be provided yet. This was in line with Mr and Mrs W's own experience of vaccinating their previous puppy, so they didn't find it unusual. The scammer agreed they would provide the details of the treatment to Mr and Mrs W's own vet when they visited with the puppy, and this can be verified in the messages they've provided between them and the scammer. They clearly show Mrs W asking for the treatment details to provide to her vet. Overall, I don't think they've acted unreasonably in accepting what the scammer told them or in not asking for more paperwork.

I'm also not persuaded that even if they had been provided with paperwork a reasonable person would be able to know whether or not such documentation is authentic. Again, it's clear in this case the scammer went to some lengths to mislead Mr and Mrs W about the puppy.

Santander has also suggested Mr and Mrs W should've consulted with a vet. It's not explained in what capacity it means or how it feels this would've uncovered the scam. I don't think a reasonable person would ask to take a puppy to the vet for a consultation or start carrying out tests on them before they took ownership of them. Mr and Mrs W took the puppy to a vet within a few days of taking them home and it was ultimately a DNA test that confirmed the breed, so it's clear this isn't something even a vet was able to identify by looking at the puppy.

Are Mr and Mrs W entitled to a full refund of the money they paid to the scammer?

Santander have said Mr and Mrs W still have the puppy, and so their loss isn't the full amount they paid to the scammer. It hasn't provided any evidence or argument to support this.

As I explained in my provisional decision, I have considered this point very carefully. I accept there may be situations where if someone receives something of comparable or even some value it's reasonable to take this into account when thinking about the overall loss they've suffered. But in this case, I don't think it's fair and reasonable to say Mr and Mrs W haven't suffered a total loss of the money they paid to the scammer. In reaching this conclusion I've taken the following points into account.

I don't think there is a reliable way to quantify how much money Mr and Mrs W could expect if they tried to resell their puppy (which is now an adult dog). Based on what I can see, the breed they have is, as a starting point, worth less than the breed they paid for. Older dogs seem to be less sought after and therefore worth less than puppies. And, based on the information from the pet forum they used from the time they bought their puppy and now, it seems the price of puppies in general has decreased significantly following the end of the pandemic. So I think it's likely that if they tried to resell their puppy the price they would be able to obtain, should they find a buyer, would be considerably less than the amount they paid. And given how nuanced the circumstances of their situation are, I don't think there is a reliable way to measure what price the reselling of the dog would achieve.

Even if I could reasonably assess what monetary value the dog might achieve should they choose to sell, I think it's important to factor in that there would be some emotional burden involved in trying to rehome or resell a dog. Especially given the amount of time Mr and Mrs W have spent with the dog as they were unable to return or surrender them to a charity straight after the purchase. I'd also add that trying to resell an animal responsibly and ethically is in itself likely to be a burden on a reasonable person and will come with a level of inconvenience and work in trying to find a suitable buyer if there was interest in the dog.

It may be that Santander's comments are a reflection of the fact that the dog does bring some value to Mr and Mrs W's lives, and I have no doubt this is the case. But whilst Mr and Mrs W do have 'a' dog, which was their expectation, I think it's reasonable to say the breed is one of the most important factors in choosing a dog. Because the dog wasn't the breed they wanted, they don't have the same assurances they otherwise might've about the dog's future health, behaviour or care needs and there's no way of knowing the impact this might have.

The dog also comes with an ongoing financial cost. And whilst Mr and Mrs W might've already factored this cost into their lifestyle as they expected to come home with a puppy, they have lost the opportunity to have the breed they wanted without an additional financial cost. And, it's reasonable to assume this is a commitment that they will now have for several years.

Essentially, if you think of the puppy solely as an item purchased, Mr and Mrs W were tricked into handing over their money for something they didn't intend to buy and have kept because they were unable to return it and couldn't reasonably arrange for someone else to take ownership of it. And whilst they do 'benefit' from the 'item' this is because the item in this case is a living thing that needs their care and attention and will do for many years.

Overall, taking into account the very limited options Mr and Mrs W had that drove the decision to keep the dog, the material loss they've suffered and the potential future impact of

this loss, I'm satisfied they should receive full reimbursement for the money they paid to the scammer.

Santander should:

- Reimburse Mr and Mrs W for their loss in full (£2,500)
- Add interest at a rate of 8% on the above amount from 7 July 2020 (the date the money ought to have been reimbursed) to the date of settlement

My final decision

I uphold this complaint. Santander Bank UK plc should reimburse Mr and Mrs W in line with the redress I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 19 July 2022.

Faye Brownhill
Ombudsman