

The complaint

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

What happened

In October 2021, Miss K received a message from a man through a dating website she had signed up to. They swapped numbers and started talking by phone and text message, and their relationship developed to the point where Miss K thought they were in a romantic relationship. Unfortunately, we now know the man was a scammer.

The scammer said he worked as an architect and had to fly to a foreign country to see if he had won a contract to build a school there. He then said he had won the contract and received a grant to build the school, but his bank account had been blocked due to the large amount of money from the grant going into it. He had tried to have the grant paid by cheque as well, but needed money in order to open an account in the foreign country and pay the taxes to have the grant released to him. So he asked Miss K to lend him some money.

As Miss K thought the scammer was genuine and was told he would repay her once his account was unblocked, she made several payments from her Santander account to the account details the scammer gave her. I've set out the payments Miss K made below:

Date	Amount
21 November 2021	£5,000
21 November 2021	£3,000
22 November 2021	£8,000

The scam was uncovered after Miss K and the scammer arranged to meet in person, but the scammer didn't show up. Miss K also asked him to repay the money she had sent to him, but he kept giving excuses for why he couldn't and then eventually stopped responding and blocked her phone number. Miss K then reported the payments to Santander as a scam and asked it to refund the money she had lost.

Santander investigated and said it didn't provide an effective warning before Miss K made any of the payments, so accepted it was partly liable. But it also said Miss K could have done more to check the man was genuine before making the payments. So it offered to refund 50% of the money she had lost. Miss K wasn't satisfied with Santander's response, so referred a complaint to our service.

I sent Miss K and Santander a provisional decision on 20 April 2023, setting out why I was intending to uphold this complaint. An extract from my provisional decision is set out below:

"In deciding what's fair and reasonable in the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Santander is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This code requires firms to reimburse customers who have been the victim of authorised push payment scams, like the one Miss K fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made*
- The customer made the payment without a reasonable basis for believing that:
 - o the payee was the person the customer was expecting to pay;*
 - o the payment was for genuine goods or services; and/or*
 - o the person or business with whom they transacted was legitimate**

There are further exceptions within the CRM code, but these don't apply here.

Did Miss K ignore an effective warning in relation to the payments?

Santander has accepted that it didn't provide an effective warning to Miss K before she made any of the payments. So Miss K therefore can't have ignored an effective warning in relation to any of the payments.

Did Miss K have a reasonable basis for belief when making the payments?

Miss K says she was initially contacted by the scammer through a dating website she had signed up to, so she wasn't cold-called or contacted unexpectedly. She says the scammer's profile on the dating website looked normal and had a number of photos of him. And she had been communicating with him for a number of weeks before sending him any money, including speaking to him over the phone and being sent photos of him growing up and a copy of his passport. So I think it's reasonable that this will have initially seemed like a genuine relationship to Miss K.

When he mentioned needing to go to a foreign country about a contract, Miss K says the scammer left her a voicemail which sounded as if he was in an airport and sent her screenshots showing his location in the foreign country. The scammer then also sent her designs for the school he was building and a certificate of the grant he had received. And when he started asking her for money, the scammer sent Miss K a photo of the cheque he'd been given and screenshots showing his account was blocked. And I think it's reasonable that this will all have made what the scammer was telling her seem genuine to Miss K.

The scammer also told Miss K that he had no other family he could ask to lend him the money, and explained that she should send the money to his solicitor in the UK who was helping him with his account and would be able to send the money on to him. So I also think Miss K was given plausible explanations for the circumstances surrounding the payments she was asked to make.

With the benefit of hindsight, it's possible to identify things about the situation which should have caused Miss K some concern or steps Miss K could have taken to reduce the risk of

falling victim to this kind of scam. But based on what she's told us I don't think it was unreasonable that, in the moment, she didn't pick up on these issues, they didn't cause her enough concern to overcome the parts of what was happening that did feel genuine or she didn't carry out any further checks into what she was being told.

So I don't think Santander has established that Miss K made the payments without a reasonable basis for belief that they were genuine.

I therefore don't think Santander has established that any of the exclusions to reimbursement under the CRM code apply here. And so, under the CRM code, I think Santander should refund the money Miss K lost as a result of this scam – in full.”

I said I'd consider anything further Miss K and Santander sent in following the provisional decision.

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.

Neither Miss K nor Santander sent in any further information to be considered following the provisional decision, and both said they accepted the outcome I'd reached. So, as no further information was sent in, I still think the conclusions I reached in the provisional decision are correct, and for the same reasons.

So I still don't think Santander has established that any of the exclusions to reimbursement under the CRM code apply here. And so, under the CRM code, I think Santander should refund the money Miss K lost as a result of this scam – in full.

My final decision

For the reasons set out above, I uphold this complaint and require Santander UK Plc to:

- Refund Miss K the remaining £8,000 she lost as a result of this scam
- Pay 8% simple interest on this refund, from the date it initially declined her claim until the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 22 June 2023.

Alan Millward
Ombudsman