

The complaint

Mr B complains about Santander UK Plc.

He says that he has been the victim of a scam, and that Santander didn't do enough to protect him. He would like Santander to refund him the money he has lost.

What happened

In 2017, Mr B was cold called by W, offering an investment in a property bond.

Mr B was persuaded to invest £5,000, and made this payment to W, in a Santander branch.

Mr B says that he was scammed by W, and that Santander should have done more to protect him from losing his money.

Mr B made a complaint to Santander, but it didn't uphold his complaint.

Unhappy, Mr B brought his complaint to this Service.

Our Investigator considered things but didn't think that the complaint should be upheld. They said that while Santander should have intervened when Mr B made the payment, they couldn't say that an intervention would have prevented the loss given the information available about W at the time.

Mr B asked for an Ombudsman to make a decision, 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.

Having done so, I've decided not to uphold this complaint. I know this will be disappointing for Mr B, so I'll explain why. While I have carefully noted all representations made, I will not be addressing every single point that has been raised. I mean no disrespect by this; however, I don't need to particularise every point when reaching an outcome I consider to be fair and reasonable. Instead, I will focus on the issues that are central to the outcome.

It isn't immediately apparent here if Mr B was the victim of a scam – Santander says that this is a civil dispute – and that Mr B paid a legitimate business which has now entered into liquidation.

I understand that there is an ongoing police investigation into what has happened – but the outcome of this investigation isn't currently known. That said, I don't need to make a finding on this matter to make my decision.

Santander has no obligation to protect its customers from bad bargains or to provide

investment advice – so if Mr B paid money to a legitimate company, it would be under no obligation to have prevented the payment from being made.

That said, as it is unclear if Mr B was scammed or not, I will explain why I am still not upholding his complaint, even if this was the case.

In broad terms, the starting position at law is that a bank is expected to process payment and withdrawal requests that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. So, while Mr B never intended to pay money to a potential scam, under the Payment Services Regulations 2017 (PSRs), he is presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are sometimes circumstances where it may be appropriate for a bank to take additional steps or make further checks before processing a payment to help protect customers from the possibility of financial harm or fraud – but they can't reasonably be involved in every transaction.

I've carefully considered what this means for the payment Mr B made to W.

Having done so, I think that the payment Mr B made was unusual considering the way he normally operated his account – so I do think that Santander should have questioned him about the payment he was making.

That said – even if Santander *had* questioned Mr B about the payment, I don't think that it would have made a difference in this case for broadly the same reasons as our Investigator. In order for me to uphold this complaint, I would have to be satisfied that an intervention by Santander could reasonably have prevented the loss here – and I'm afraid I don't think it could.

Had Santander questioned Mr B about the payment, I think that he would have told it the truth – that he was making an investment with W, which appeared – through its registration with Companies House – to be a legitimate business. At the time Mr B made the payment, it was actively trading, and it would have needed a considerable amount of investigation to unearth the information about W that later came to light.

So, I don't think that Santander reasonably ought to have any concerns at the time. And I'm satisfied that Santander hasn't missed an opportunity to prevent the payment before it was sent.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 September 2023.

Claire Pugh
Ombudsman