

The complaint

Mrs K has complained that Santander UK Plc (Santander) has refused to refund the money she lost falling victim to a scam.

Mrs K is being represented by a third party. To keep things simple, I will refer to Mrs K throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mrs K was looking for a new job and had entered her details online on several recruitment company websites. Mrs K received a WhatsApp message from a recruitment company who in turn put her in touch with what appeared to be a legitimate App development company (X). This turned out to be a scam company that had cloned a legitimate business.

X explained the opportunity to Mrs K. Mrs K would have to purchase "bundles" that unlocked tasks for her to complete endorsing apps, which she would then earn money by endorsing. Mrs K would be able to earn back the money she initially paid out plus commission.

Mrs K was shown a convincing website and the platform she would be working from looked very professional.

Mrs K completed several bundles before being presented with a much more expensive bundle she could not afford to pay out for. Mrs K requested her money back from X but was told she would have to complete the tasks before making a withdrawal, and if she could not afford to make the payment, she could loan the money required elsewhere.

Mrs K became suspicious when X told her to loan money and contacted the legitimate business X was posing as. She was told the people she had been speaking to were not affiliated with it. It was at this stage Mrs K realised she had fallen victim to a scam.

Our Investigator considered Mrs K's complaint and thought it should be upheld in part. Santander disagreed so this complaint has been passed to me to decide.

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.

It has not been disputed that Mrs K has fallen victim to a cruel scam. The evidence provided by both Mrs K and Santander sets out what happened. What is in dispute is whether Santander should refund the money Mrs K lost due to the scam.

Should Santander have prevented the payments Mrs K made?

Mrs K has accepted she authorised the payments she made from her Santander account, so the starting point here is that Mrs K is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Santander should have stepped in when Mrs K was attempting to make the payments, and if it had, would it have been able to prevent the scam taking place.

Mrs K made several payments in relation to this scam. Most of the payments were to businesses she had not previously paid. But it would not be reasonable for me to say Santander should stop all payments its customers make to new businesses. I would not have expected the value of most of the payments Mrs K made to have triggered Santander's fraud prevention systems prompting it to stop them.

However, on the 2 January 2023 Mrs K made a larger payment of £5,000 to a business she had not previously paid. This payment was unusual when compared to Mrs K's usual spending habits and was substantial. So, I would have expected Santander's fraud prevention systems to have been triggered by this payment and for it to have questioned Mrs K about what the payment was for.

I haven't seen anything that makes me think Mrs K wouldn't have been honest about what the payment related to, and the scam Mrs K was experiencing was like other employment related scams I would expect Santander to be aware of at the time. So, I think it's likely that if Santander had stepped in it would have been able to prevent Mrs K from incurring any further loss. It is therefore responsible.

Did Mrs K contribute to her loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, I do think it would be fair to reduce compensation on the basis that Mrs K should share blame for what happened. Mrs K was contacted with an employment offer with no official contract. Mrs K also paid into the scam without carrying out adequate research on the actual business she was being employed with.

I think it would be fair to reduce compensation by 50% on the basis that Mrs K should share some blame for what happened.

Santander has argued that the funds Mrs K lost to the scam were sent from her Santander account to a crypto wallet in her name, before being sent to the scammer. So, the scam occurred when the funds were sent from her crypto wallet and not when they left her Santander account.

This hasn't changed my decision. Santander are aware of its responsibilities as described above in relation to protecting its customers from financial loss. This includes when a customer's account is used in an unusual way. Santander is also aware of our longstanding approach to this type of complaint.

If Santander had stepped in when it should have Mrs K would not have lost as much money as she did to the scam, and it is therefore responsible.

Putting things right

Santander UK Plc should refund £2,500 to Mrs K (50% of the £5,000 payment made on 2 January 2023).

Santander UK Plc should add 8% simple interest per year to the amount it pays Mrs K from the time Mrs K made the payment to the time Santander UK Plc provides the refund (less any lawfully deductible tax).

My final decision

I uphold this complaint and require Santander UK Plc to put things right by doing what I've outlined above.

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

Terry Woodham
Ombudsman