

The complaint

Mr T has complained Santander UK Plc won't refund several payments he says he made and lost to a scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. In summary, Mr T fell victim to an investment scam after seeing an article on a well-known social media platform. He made/attempted to make numerous transfers to his account held at an electronic money institution (EMI), international transfers and card payments between circa 22 April 2023 and 13 June 2023. Mr T's final destination he had in mind for each of these payments, no matter which financial institution he first sent the funds to, was the scammer. In total he sent over £60,000.00 as part of the scam.

Mr T subsequently discovered the investment was a scam after he ran out of money, without having been able to withdraw his profits.

Santander didn't reimburse Mr T's lost funds and so he referred his complaint to us. Our Investigator looked into things but didn't recommend the complaint be upheld. They weren't persuaded, on balance, that Santander could have prevented Mr T from falling victim to the scam because he was not open and honest during the interventions which took place. As our Investigator couldn't resolve the matter informally, the case has been passed to me for a final decision.

What I've decided – and why

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I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I don't doubt Mr T has been the victim of a scam here; he has lost a large sum of money and has my sympathy for this. However, just because a scam has occurred, it does not mean Mr T is automatically entitled to recompense from Santander. It would only be fair for me to tell Santander to reimburse Mr T for his loss (or a proportion of it) if: I thought Santander reasonably ought to have prevented all (or some of) the payments Mr T made, or they hindered the recovery of the payments Mr T made – whilst ultimately being satisfied that such an outcome was fair and reasonable for me to reach.

I've thought carefully about whether Santander treated Mr T fairly and reasonably in its dealings with him, when he made the payments and when he reported the scam, or whether it should have done more than it did. Having done so, I've decided to not uphold Mr T's complaint. I know this will come as a disappointment to him and so I will explain below why I've reached the decision I have.

I have kept in mind that Mr T made the payments himself and the starting position is that Santander should follow its customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance. I appreciate that Mr T did not intend for his money to ultimately go to fraudsters, but he did authorise these payments to take place. However, there are some situations when a bank should have had a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

Considering the 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 - Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So, I've thought about whether the transactions should have highlighted to Santander that Mr T might be at a heightened risk of financial harm due to fraud or a scam. I agree with our Investigator that they should have. With this in mind, I think the times the interventions did occur were reasonable and I am not persuaded additional ones were necessary. But, even if additional interventions took place that they would have ultimately changed the outcome. Nor am I persuaded if further questions had been asked during these interventions that it would have prevented Mr T's loss. I will explain why below.

I agree with our Investigator that Mr T seems to have been under the scammer's influence from an early stage, updating her and reverting to her for guidance as necessary. When Mr T was making payments the scammer was advising him via messenger and it seems by frequent telephone calls. The scammer was pointing out the difficulties financial institutions cause, that they are dishonest and to expect a call from their fraud team. She would also encourage Mr T to proactively call the bank to express his anger when transactions were being held. Mr T followed these instructions and I've noted he had also sent her a message confirming when he was on the phone – so he could just as easily have reached out this way if faced with any question he wanted her guidance on. Additionally, shortly into the "investment relationship", the scammer complimented Mr T and so he requested a picture of her. The scammer was then able to build upon her influence over Mr T by sending one - adding a more personal level to the conversation. Whilst this "personal relationship" developed Mr T continued keeping the scammer updated with his progress resolving issues with his funds not being released. This gave the scammer the opportunity to guide him on what reasons he should give for the transfers e.g. for his son. As this relationship developed, the messages between Mr T and the scammer became more suggestive and more explicit.

Consequently, it meant the scammer was able to exploit these feelings and offer, alongside the expected financial returns, the promise of explicit pictures. I'm persuaded this adds an additional dimension to the relationship and highlights the trust he had towards the scammer. Considering how early I am persuaded this level of influence developed, I do not think had further interventions / questioning occurred that Santander would have broken this spell. Mr T was not just financially invested in the relationship, but personally.

I have kept this level of influence in mind when considering the interventions which did occur before Santander released Mr T's funds. During these interventions, among other things, Santander informed him that scammers will be very convincing and if he has been asked to mislead them, even as to the payment reason, it was because of a scam. Mr T confirmed each time that he was answering honestly and no-one had told him to mislead them. He confidently explained his son was in another country and he was sending the funds for his home improvements. He highlighted to Santander that using his EMI account was a cheaper way to send funds internationally, which also would have alleviated Santander's concerns as this was a reasonable response. Mr T also confirmed this account was set up by himself. Ultimately, Mr T was not being forthcoming with the details that would have allowed Santander an opportunity to uncover he was being scammed.

I've noted Mr T believes Santander should have probed further during its intervention calls, but I don't agree it would have made any difference. Santander's intervention must not amount to an interrogation and although the questioning by Santander could have been more in-depth, Mr T was not forthcoming with his answers anyway. I am persuaded on the available evidence that he would either have reverted to the scammer for guidance, or built upon the coaching he had already been given to ensure the transfer was successful. I am satisfied enough information was brought to Mr T's attention overall to put him on notice, considering his awareness of the wider details of his investment he hadn't shared, that there could be a risk of fraudulent activity. If Mr T had been more forthcoming with his answers Santander would likely have recognised he had fallen victim to a scam and been able to do more. As per Mr T's testimony this was a sophisticated scam, with a personalised access to a fake platform. Due to this, when combined with the type of relationship he had quickly developed with the scammer, I'm not persuaded that any follow up questions Santander could have asked in any call with Mr T would have uncovered the scam. Nor have I seen any evidence that Santander was aware of the final destination of Mr T's payments. So, it would not have known his payments were going to any sort of an investment platform that was scamming investors. During any questioning, it's most likely Mr T would have continued to provide Santander with credible answers that would have reassured it of any concerns it may have had.

Similarly, the EMI where he sent some of his funds also intervened with human intervention. Mr T continued to be evasive and not answer questions honestly here as well. In response to questions he alleviated its concerns by confirming: he had not downloaded any screensharing software, these were personal transactions, he had not received any calls encouraging him to create this account, no-one had asked him to make outbound transfers, no-one is guiding him on how to respond to its questions, he had not been promised anything and he had not been contacted by anyone he met online recently that's encouraged him to invest. When the EMI responded referring to Mr T's transactions as an investment, he also questioned what investment and said anything he was doing on his account he had done himself. I think this too highlights the levels of evasiveness Mr T was willing to use to ensure his transactions occurred in line with his wishes.

The EMI did bring to Mr T's attention the common tactics of scammers, that they can be very persuasive and if he does not know the person very well he should not take their investment advice. It then rejected his transfer and recommended he ignore any contact from individuals pressuring him to invest his money and perform further research. However, Mr T responded

to confirm he had withdrawn profits, found the platform on a search engine, it has good exchange rates and had been using it for around a year. The warning the EMI gave Mr T, alongside these intervention questions, should have resonated with his circumstances.

Consequently, I am not persuaded that a more thorough intervention by Santander would have uncovered the scam, or that Mr T would have heeded such a warning from it either. As such, I do not think that Santander could have prevented Mr T's losses. So, although I don't doubt he trusted Santander, I think it is his actions show he trusted the scammer more. I have seen no evidence that this influence waned as the scam continued, instead it was increasing. I also think on balance that had Santander prevented him making his payments that he would have found another way to make them. I say this because Mr T was clearly not averse to opening new accounts or, as per the scam chat, been willing to find a way to make the payments – such as physically travelling to the bank. Mr T was also willing to use his initiative and build upon the general coaching given by the scammer during the interventions – which I also think would have played a role in any additional questioning / intervention.

I have noted that Mr T took a loan and used the funds as part of the scam. However, sending newly acquired funds to other accounts, in isolation of wider red flags, is not unreasonable. He informed Santander he was taking this for home improvements and had informed them he was sending funds to his son for home improvements – so this would not have flagged as unusual either given the explanation Mr T was providing. I've also noted that when the EMI questioned him on one transfer, which looks like it may have been an international one, he gave an explanation of it going to a longtime friend. Confidently giving such answers, in the absence of other red flags, would also not have seemed particularly unusual. Therefore, I'm not persuaded the loan should have caused Santander any concerns.

Whilst Mr T has undoubtedly been the victim of a cruel scam, I'm not persuaded that Santander could have prevented his loss.

Recovery

I have gone on to consider if Santander took reasonable steps to try and recover the funds. It's important to note Mr T didn't instruct Santander to send all the money directly to the scammers. Mr T completed transfers to his own account. Those funds were then sent on to the scammer via different means such as via cryptocurrency. Santander would only ever have been able to attempt to recover the funds from the initial destinations, so I do not think it could have done anything further to successfully obtain the funds. If these funds had not already been transferred to the scammer, they would be in Mr T's control to access as and when he chose. So, I do not think there was anything further Santander could have done. I also do not think Santander would have been able to successfully recover any international payments. As well as being more difficult to recover than payments made to financial institutions within the UK, ultimately once a scammer receive funds within their account they will tend to quickly move them. They do so to ensure recovery of the funds becomes more improbable, if not impossible.

In relation to Mr T's card payments, the only option available would be a chargeback. However, I also do not think these would have been successful in this situation as he very likely received the expected service, prior to those funds being sent to the scammer.

Therefore, I won't be asking Santander to do anything further.

The Contingent Reimbursement Model Code

Although Santander has signed up to the Contingent Reimbursement Model Code, the

transfers Mr T made from his Santander account aren't covered by the Code because he made the payments to either: accounts in his own name, internationally or via card. I cannot fairly and reasonably say that Santander should have to refund payments under the Code when it doesn't apply to those types of transactions.

So, in light of all of the above findings, there's no fair and reasonable basis under which I can ask Santander UK Plc to reimburse Mr T's loss.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 5 September 2025.

Lawrence Keath
Ombudsman