

## **The complaint**

Mr G complains that Santander hasn't refunded him for money he sent to support a business project he now realises was a scam.

## **What happened**

Mr G is a limited company director (working alongside a fellow director).

He had been in contact with someone he knew through church – who I'll refer to as S. Having spoken to S for several months, Mr G learned that S was proposing to start a new business venture. Mr G was keen to support this, in return for a share of the profits.

He and his fellow director began to provide funding for S's new venture. As S's venture was based overseas, Mr G sent the funds via money transfer services.

While a proportion of the funding was provided by Mr G's business partner, all of the transfers to S were funded by card payments from Mr G's accounts held with Santander and payments from another bank.

Initially these payments were for small sums. Between November 2021 and May 2022 Mr G made 52 payments to one of the money transfer firms, for a total value of just under £9,000. He then made some larger payments to that money transfer firm, before switching to use a different transfer firm.

From this second money transfer firm, Mr G then sent 20 payments totalling around £15,600 before making higher value payments between 15 August and 19 August. S claimed to be in financial difficulties and so a large number of the transfers made by Mr G were intended to cover basic expenses.

The following year, Mr G and his fellow director found out that the financial difficulties claimed by S were false. They realised they had been the victims of a deception. Mr G reported the matter to his banks, seeking a refund.

Santander looked into what had happened. It could not recover Mr G's funds – the payments had already been utilised through onward transfer from the merchants. It explained that it didn't consider it was liable to reimburse Mr G for the amounts he'd lost. I

t said he'd authorised all of the payments, which had been to accounts he held in his own name with legitimate and trusted merchants. The bank had no reason not to have followed Mr G's payment instructions.

Mr G didn't accept this, and referred his complaint about Santander to this service for an impartial review.

Our Investigator didn't think Santander was liable to refund Mr G. The payments from Mr G's Santander account had been card payments made to legitimate merchants. Mr G had made those payments for money transfer services from accounts he held at those merchants. He'd

received the service he'd paid for when he made the relevant card payments from his Santander account.

Given the length of time over which Mr G had made these payments, the first money transfer firm would have appeared as a regular and trusted payee for Mr G by the time he made some larger payments in May 2022. The same applied for the payments to the second money transfer firm. The Investigator didn't think there would have been sufficient reason for Santander to have done other than to process Mr G's payments.

Mr G didn't agree. He thought that there were a few occasions where the total value of payments he'd made on a single day ought to have stood out from his normal transaction history. But the Investigator explained that this had been something he'd carefully considered when he'd reached his conclusions.

In light of this disagreement, I have been asked to reach a final decision on Mr G's complaint.

### **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.

I'm sorry to hear about what has happened here, and the impact this has had on Mr G and his business partner. They provided funds in good faith to support a business venture, but they were cruelly deceived. Between Mr G and his business partner they have lost a considerable sum.

But the fault here is primarily down to the criminal actions of the scammers who deceived Mr G. In broad terms, the starting position in law is that a bank such as Santander is expected to process card payments that a customer authorises it to make without undue delay, in accordance with the terms and conditions of the account.

It's not in dispute that Mr G authorised these payments, paying legitimate money transfer merchants in the belief he would then be sending funds on to S as part of a joint business venture. Santander had an obligation to follow Mr G's instructions in allowing him to pay accounts he held with those merchants.

That being said, if there was sufficient reason for Santander to have identified that these payments might have been connected to fraud or a scam, I might consider that as a matter of good industry practice the bank should have taken further steps prior to processing Mr G's payment instructions – such as delaying a payment until it could question him about it.

Mr G argues this should have applied here.

I've carefully considered Mr G's representations on this point. But having done so, I don't think these payments were ones that should have caused Santander obvious concern that Mr G might be at risk of financial harm through fraud or scam.

Banks have a difficult balance to strike between intervention and the primary obligation they face to process payment instructions without delay. I could only find the bank at fault were there clear grounds to say it ought to have intervened at the time.

And I can't apply the benefit of hindsight here – I must base my findings on this point on the information that would have been available to Santander at the time. On the face of it, I find that information would have pointed to these being legitimate card payments to a legitimate

merchant.

The initial payments Mr G made were for relatively small sums. These simply wouldn't have been remarkable in the context of his normal account usage. While sometimes there was more than one payment on a single day, the values were typically between £50 and £500.

Payments and receipts (presumably legitimate) for larger sums show regularly on Mr G's account. Again, that is often more than once per day.

By the time Mr G made slightly larger value payments within a single day, for example by the date in May 2022 when he first paid an amount over £1,000 within 24 hours, he'd made 52 prior payments to that same merchant spread over the course of around half a year. No dispute had been raised in connection with those 52 prior transfers over that time.

In effect this established a pattern after which history Santander might reasonably have considered the use of this merchant (itself a legitimate money transfer firm) as being part of Mr G's normal account usage.

When Mr G switched to using a different money transfer firm, he stopped using the original merchant – he didn't use both simultaneously. The use of that new merchant would then fit the pattern of Mr G making regular card payments to legitimate money transfer merchants.

Again, Mr G made a series of payments, this time 20 in total, before an occasion where he made four payments to the second merchant on a single day. So, while the largest single amount he transferred to that merchant in one day was over £6,000, this was in the context of him using the same legitimate merchant a significant number of times prior to that occurrence.

All taken into account, I find these payments were simply not sufficiently unusual or remarkable in the context of Mr G's account that I could reasonably find Santander at fault in not intervening before processing the instructions.

I have also considered whether Santander could have done more to recover funds from either provider when Mr G later reported that he'd been scammed. But the payments he made were to money transfer providers from which funds had been moved on. They had provided the service he had paid for. A chargeback would have had no reasonable prospect of success. No other recovery attempts could have been successful. I don't find Santander could have done more here.

Overall, while I sympathise with Mr G and appreciate the impact this scam has had on him and his business partner, I don't find Santander is responsible. I don't require Santander to reimburse him for the money he has lost here.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 18 April 2024.

Stephen Dickie  
**Ombudsman**