

The complaint

Mr C complains that Santander UK Plc won't refund money he lost as a result of an investment scam.

What happened

Mr C came across a supposed investment opportunity on social media and registered his interest. He was subsequently contacted by fraudulent company, who I'll call G, and he invested \$200 using a card payment.

Later, G talked him through opening a new account with Wise as well as a cryptocurrency wallet and Mr C made a £3,000 further investment. This was made as a faster payment from his Santander account, to Wise, and then to a cryptocurrency wallet before eventually landing in the hands of the fraudsters.

Mr C later asked to withdraw his profits and was told he needed to transfer £25,000 to his cryptocurrency wallet and back as part of an 'advanced verification transaction'. G told him to do this in three payments – again from his Santander account, to Wise, to his cryptocurrency wallet.

Santander blocked the second and third payment. As per G's instructions, Mr C told Santander the payments were part of a house purchase abroad and the money was being sent to three family members. As a result, Santander released the payments.

When the money reached the wallet, it was withdrawn by the fraudsters, and Mr C realised he'd been scammed. He disputed the payments with Santander, who declined to refund him. It said the money was transferred to an account in Mr C's name and control so the loss doesn't lie with it. It added that when it intervened Mr C lied about the payment purpose.

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 reached the same conclusions as our investigator for these reasons:

- The starting position in law is that Mr C is responsible for payments he made. And Santander has a duty to make the payments he tells it to.
- But, as supported by the terms of the account, that doesn't preclude Santander from making fraud checks before making a payment. And, taking into account regulatory expectations and good industry practice, I'm satisfied it should fairly and reasonably have done this in some circumstances.
- Indeed Santander did carry out fraud checks with the penultimate and final disputed payments. I'm satisfied that was an appropriate point for it to step in, given the increase in value and frequency of the payments.

- That means the key issue for me to decide is whether Santander's response was proportionate to the fraud risk it identified.
- Santander can't provide the substantive part of the call recordings where it spoke to Mr C about the payments. But Mr C has consistently explained he was told to lie to Santander about the payment purpose. He told them it was connected to a house purchase abroad with family, which they accepted and released the payments.
- Given the suspicious pattern of the payments – multiple payments to a new payee in quick succession, involving an e-money institution – I'd have expected Santander to have reasonably probed Mr C's story and not simply taken it at face value. Afterall, Santander would've been aware of how common it is for fraudsters to give their victims a cover story.
- In saying that, I've considered how the payments were going to an account in Mr C's name. But, given the ever-increasing risk of multi-stage scams, I don't think that was enough to reassure Santander. Indeed, it still intercepted these payments and asked to speak with Mr C, despite being able to tell through the payment purpose selected and the confirmation of payee result that the account was in his name. So it seems it recognised that the immediate payment destination wasn't enough to say all was well, and that there remained a need to question Mr C.
- Had Santander probed Mr C appropriately, I think it ought to have been concerned that he was being coached and was falling victim to a scam. For example, I don't think he'd have been able to give any details of the house he was supposedly purchasing or persuasively answer why he'd need to send the amount in three payments to his own account.
- Taking this all into account, I think Santander ought to have warned him about the likelihood he was falling victim to a scam. There's nothing to suggest that happened – Santander can't provide the evidence and Mr C doesn't recollect it.
- But, if Santander had warned him as it ought to have done, I don't think he would've have gone ahead with the payments and suffered the extent of the losses he did. Afterall, this was a lot of money for him to risk losing, and I think he'd have trusted the advice of his longstanding bank.
- In these circumstances, I'm satisfied it's fair to hold Santander responsible for some of his losses from the penultimate and final disputed payment.
- Santander has questioned whether this is a fair outcome as they weren't the only firm involved in the scam. But he's not brought other complaints about this matter, and I can't compel him to. That means my role is to consider the complaint Mr C brought against Santander.
- And as I've explained, I think Santander could've reasonably foreseen that he might be falling victim to a multi-stage scam, and I think an appropriate warning would've made a difference to his overall losses. Coupled with the fact that I've not seen he's recovered money elsewhere, I'm satisfied it's fair to hold Santander responsible for some of these losses from the penultimate disputed payment.
- Mr C has already accepted that he should share the blame for these losses, by way of contributory negligence. And for completeness, I agree with the investigator's

recommendation to reduce the award by 50%. I think Mr C ought to have been suspicious that his profits looked too good to be true and, given the amount involved, looked further into the supposed 'advanced verification transaction'. Moreover, I think Mr C ought to have been concerned why a supposedly legitimate company would tell him to lie to his bank.

My final decision

For the reasons I've explained, I uphold Mr C's complaint. Santander UK Plc must:

- Refund Mr C for his losses from the penultimate and final disputed payment.
- Deduct 50% from this amount to reflect his contributory negligence.
- Pay 8% simple interest per year on this amount, from the date of the payments to the date of settlement (less any tax lawfully deductible)

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 June 2024.

Emma Szkolar
Ombudsman