

The complaint

Mr M complains that Santander UK Plc (Santander) won't refund money he paid to a builder.

What happened

What Mr M says:

Mr M needed some repairs done to the roof at his home. He got some quotes and chose a roofer to do the job. He was quoted a price of £1,800. On 30 March 2023, the roofer arrived and started the repair, but then told Mr M the roof needed much more work than he thought and said the price had increased to £12,000.

Mr M was put under a lot of pressure to agree to pay this amount – as the roof was by then exposed to the weather – it was during the winter. The roofer was a large, burly man who wanted a cheque for £6,000 and cash of £6,000. He didn't take credit cards. Mr M felt he had no option but to write a cheque for £6,000 and gave it to the roofer.

The cheque was presented for payment and paid at 3am on 31 March 2023.

Mr M called Santander at 08.22 on 31 March 2023 to tell the bank what had happened. He advised the police and Trading Standards.

What Santander said:

The bank said Mr M authorised the payment and the bank weren't liable for any loss. They tried to recover the funds from the roofer's bank, but without success.

Santander said they couldn't treat it as fraudulent or a scam, but a civil matter between Mr M and the roofer. Further, they said the payment wasn't out of line with Mr M's normal account activity – so they didn't question it.

By the time Mr M called Santander – on 31 March 2023, the cheque had been paid and debited to his account.

Santander apologised that one of Mr M's letters hadn't been responded to, and for that paid compensation of £20.

Our investigation so far:

Mr M brought his complaint to us. Our investigator said: what happened wasn't a scam or fraud, but a civil dispute between Mr M and the roofer. It wasn't something Santander could be held responsible for. This was a situation where a rogue trader pressurised Mr M to pay more money. It was a criminal matter, and not a scam.

He said Mr M may wish to pursue the matter as a civil claim – through the courts. He suggested taking advice from Citizens Advice Bureau.

Mr M didn't agree. He said:

- This was clearly a fraud and was a criminal matter.
- Santander failed to protect him. He said the payment of £6,000 to a roofer was out of character compared to the way he conducted his account. The bank's systems should've been able to identify there was a problem and stop the cheque.
- He said that the Consumer Duty should be borne in mind.

Mr M asked that an ombudsman looks at his complaint, and so it has come to me to make a final decision.

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.

As a first step, I need to decide whether this was a scam (where a scammer takes money from a customer with no intention of providing any services or returning the money to them) or a civil dispute (where a payment is made to a legitimate trading company or business, but the promised services or products don't materialise, or are sub-standard).

If this was a scam – then banks (including Santander) must follow industry and regulatory guidance to check certain payments and in some circumstances, protect customers by stopping the payments and contacting customers about them. And where banks haven't followed the guidance, they can be asked to refund them. This is called 'Authorised Push Payments guidance (APP)'.

To give an idea, typical scams are commonly perpetrated by criminals through illegal call centres - for example, scams relating to online banking, or tricking customers into transferring funds to a 'safe account', and romance or investment scams using social media.

But where payments are made to a valid business for work to be done, then such principles don't apply. This is then classed as a civil dispute, and for which banks normally have no liability.

I therefore looked at Mr M's complaint with this in mind. I can see this is clearly a civil dispute between himself and the roofer. I say that as Mr M got quotes for the work and chose the roofer in question. The roofer commenced (and then completed) the work (albeit at a much higher price than he quoted for).

The only way this could be considered a scam would be if (for example) the roofer quoted for the work, and then tricked Mr M into paying a deposit (or paying other money upfront) – and then disappeared without doing any work at all and didn't ever intend to do any work. And usually, such a scammer would carry out multiple, similar scams using the same process.

But that wasn't the case here – as I see it, this was a case of Mr M being pressurised to pay more money for a job that was completed – albeit at a much-inflated price.

I listened to the call Mr M made to Santander early in the morning on 31 March 2023. He wanted advice as to what to do – as he was concerned the roofer was coming back for the

further £6,000 later that day. Santander's call handler was concerned for Mr M's safety and advised him to consult his son-in-law and tell the roofer that his bank wouldn't let him draw the cash out – in order that he could 'play for time'. So, the call had no effect on the payment of the cheque.

The call handler said the cheque had been paid – and indeed, I heard Mr M says he could see it had been paid as he had seen his account and the cheque had been debited to it (I presume through online banking).

So, by the time of Mr M's call – the cheque had been paid. I've seen the cheque: it was dated 30 March 2023 – so it was paid in by the roofer on that day, and in Santander's records, it was paid at 3am in the morning of 31 March 2023. So – it wasn't possible for the bank to do anything by the time Mr M called later that morning.

Mr M has argued that Santander should've seen this was an unusual payment for him to make, and I looked at his account. There were several large payments or cash withdrawals prior to 31 March 2023:

November 2022: £2,500, £750, £750
December 2022: £750, £750, £750, £1,500, £2,000.
January 2023: £1,500.
February 2023: £1,064.
March 2023: £1,000, £1,000.

So, on balance I'm not persuaded that the payment was so unusual to expect Santander to have stopped the cheque and asked Mr M questions. Mr M argues that the bank should've realised it was unusual as it was payable to a roofer. But - we don't reasonably expect banks to look at the payee of a cheque and make a judgment as to whether it was an unusual beneficiary (or even know if it was a rogue roofer).

Mr M says his claim should be considered under the Consumer Duty. But this came into effect in July 2023 – after the issue arose. But in any case, I don't think it would've made any difference here in these circumstances.

Mr M has said the police told him it was a matter for the bank – but I'm afraid to say, I don't agree. I can only look at whether the bank should have done more and should be held liable. And for all the reasons I've given, I don't consider Santander can be held liable for the amount paid by Mr M.

Recovery: I can see Santander tried to get the money back from the roofer's bank. But that bank responded to say that as this was a civil dispute between Mr M and the roofer, they didn't refund any money. If it had been a scam (as I've described), the recipient bank would've had to cooperate to return funds if any remained in the account.

Mr M has had to pay a lot of money and given the circumstances of what happened with the roofer, I'm sure this was upsetting for him. He will therefore be disappointed by my decision, but I'm not going to ask Santander to do anymore here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 17 May 2024.

Martin Lord
Ombudsman