

## The complaint

Mr M complains that Santander UK Plc (“Santander”) have failed to refund the money he lost as part of an investment scam.

Mr M has a representative but for ease of reading I will mainly just refer to Mr M.

## What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mr M saw an advert for a crypto investment company that I will call B. Mr M then made a number of debit card payments to a crypto exchange and an account he held with an EMI. The funds were then sent onto B.

During this scam Mr M was scammed by another person that I will call C pretending to be an investment company. In this instance one payment was sent directly to an account with a foreign bank that was held by the scammer. This payment was made by debit card.

The summary of payments made to both scams is as follows;

Payment Number	Date	Amount	Which Scam
1	24 December 2022	£103.02	B
2	3 January 2023	£2,140.56	C
3	8 January 2023	£1,349.29	B
4	9 January 2023	£7,848.85	B
5	8 February 2023	£3,559.15	B
6	8 February 2023	£7	B

Mr M asked Santander to refund these payments as he believes Santander should have done more to prevent him from being scammed. Santander did not agree with this.

I issued a provisional decision on 17 May 2024 in which I said the following;

*“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*It isn’t in dispute that Mr M authorised the disputed payments he made from his Santander account, The payments were requested by him using his legitimate security credentials provided by Santander, and the starting position is that Santander ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.*

*However, I’ve considered whether Santander should have done more to prevent Mr M from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.*

*I agree that Santander should have intervened during transactions 4. Given this I need to consider whether an appropriate intervention would have stopped the scam. Firstly, Mr M's representative has explained that Mr M was told by the scammer to answer questions to Santander in a way that would allow the payments to go through. I also note that Mr M has not provided much of the chat between him and the scammer. This means I don't know the extent of the coaching involved.*

*I have also considered the answers that Mr M gave during the phone calls between him and Santander on 5 and 6 January 2023. Mr M in these calls seems to be answering the questions as if the final destination of the payments was the crypto exchange. The investigator said that she thought this was because Mr M believed this was what Santander was asking about. I disagree, the way he answered the questions combined with his representative saying he was told to answer questions a certain way suggests to me that he was trying to make it seem that the payments were just going to the crypto exchange. This is coupled with him saying that he had used the exchange before, which again to me seems like an answer designed to reassure Santander.*

*The only chat we do have between the scammer and Mr M suggests that the payments he had made were with the scammers "assistance and supervision via anydesk" this suggests that the scammer was actively helping Mr M and was providing him with coaching on what to do and possibly say.*

*It is also clear that Mr M really wanted to make the payments and was not happy with Santander's intervention. This is further shown by him raising a complaint about a payment being blocked to a crypto exchange some months later.*

*Considering the limited information provided about the scam, I am satisfied, albeit on balance, that had Santander asked more probing questions, I don't think that Santander would have been given information from Mr M that would have led it to believe that he was being scammed.*

*Also, given the answers that Mr M provided when Santander did intervene and the overall circumstances of this complaint, I don't think that any further intervention or warning would likely have altered Mr M's decision to carry out the transactions.*

*I can also see that after Santander blocked some payments Mr M, instead of sending funds directly to the crypto exchange or the scammer, started sending funds via a different account provider. I think this was done to avoid Santander stopping any more payments and it suggests that even had Santander stopped Mr M sending funds to the scammer Mr M may have found other ways to send the payments. Overall, he seemed completely convinced at the time that what he was doing was genuine.*

*So overall I think that Santander should have intervened more than it did, but I don't think an intervention would have prevented or stopped the scam.*

*I've also thought about whether Santander could have done more to recover the funds after Mr M reported the fraud. In relation to the debit card payments Mr M paid a crypto exchange for crypto which he duly received so a chargeback would not have been successful as he got what he paid for. I also don't think it likely that a chargeback would have worked against the payment sent directly to a scammer and the Contingent Reimbursement Model does not cover debit card payments.*

*I appreciate this will likely come as a disappointment to Mr M, and I'm sorry to hear he have been the victim of two cruel scams. However, I'm currently not persuaded that Santander can fairly or reasonably be held liable for his loss in these circumstances."*

Santander did not add any further points in response to my provisional decision. Mr M's representative did respond and in summary said that an intervention by Santander, who should have been aware of crypto scams would have prevented the scam. They say this because it believes that a comprehensive warning about the common features and risks of crypto scams would have prevented Mr M from carrying on making the transactions in question.

### **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 have carefully considered all the points raised by both parties and I remain of the opinion that whilst Santander did not intervene as it should have any intervention would not have prevented the scam.

I say this because Mr M was being coached by the scammer as to what to say which means that Santander would likely not have uncovered the scam had it asked probing questions. Mr M also was not happy with any intervention from Santander, as evidenced by the complaint he raised about a payment being blocked at a later date. So, I don't think he would necessarily have been co-operative or forthcoming if Santander intervened further.

Finally, Mr M started making payments via other methods part way through the scam rather than directly to the crypto exchange which was likely done to avoid the payments being stopped. This suggests that Mr M was completely convinced that what he was doing was genuine so I don't think that a generic warning about the dangers of crypto scams would have stopped him from continuing from making the payments in question.

I also think for the reasons set out above that there was no way of Santander recovering the funds.

It therefore follows that I do not uphold this complaint as I don't think that Santander is responsible for Mr M's loss.

### **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 M to accept or reject my decision before 2 July 2024.

Charlie Newton  
**Ombudsman**