

The complaint

Mr and Mrs D are unhappy that Santander UK Plc won't reimburse them for money they lost as a result of a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute, so I'll focus on giving the reasons for my 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.

Having done so, I've reached the same outcome as our investigator for these reasons:

- The starting position in law is that Mr and Mrs D are responsible for payments they made. And Santander has a duty to make the payments they tell 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 that it should fairly and reasonably have done this in some circumstances.
- Indeed, Santander did intervene with the final payment made as part of this scam, but Mr and Mrs D submit that it should've intervened sooner. But I'm not persuaded that an earlier intervention would've stopped the payments going ahead. I'll explain why.
- I've listened to the calls where Santander intervened, noting that Mrs D insisted she was simply transferring money from one of her accounts to another, which she opened herself – and that the overall purpose of the payment was private. The staff member stressed the importance of being honest and how this could affect her ability to get her money back if it was a scam, and Mrs D confirmed that she'd not been pressured or told to lie about what the payment was for.
- I appreciate that Mr and Mrs D think Santander ought to have been more thorough. But in the circumstances, I consider Santander's open questioning to have been a proportionate and reasonable response to the fraud risk it identified. And given Mrs D's repeated assertions that all was well, I think it acted fairly when it went ahead and processed the payment in line with her instructions.
- In saying that, I've considered Mr and Mrs D's submission that she wouldn't have gone ahead if she'd been told Santander thought it was a scam. But in light of Mrs D's reassurances, I don't think Santander were given a fair opportunity to identify this, so I don't think it can be blamed for not warning her. And overall, I think it was

clear to Mrs D that the purpose of the call was to make sure that she'd not fallen victim – so I'm satisfied she knew what was at stake.

- I've also taken on board their point that Santander should have simply stopped the payment given how unusual it looked in comparison to their usual spending. But I'm satisfied that the appropriate response to this was to delay the payment, while it made further enquiries. And when Mrs D gave no indication that she'd fallen victim to a scam, I don't think Santander acted unreasonably when it subsequently made the payment Mrs D wanted it to.
- It follows that I don't think Santander can be fairly held to blame for failing to stop Mr and Mrs D's losses. I accept they've been victims of a cruel scam, but overall, I don't find that Santander are responsible for putting right their losses.
- Finally, I've noted Santander's submissions about what its responsibilities are for this complaint involving a transfer to another one of Mrs D's accounts. But given that I've not told it to put things right, I don't consider that I need to address these points.

My final decision

For the reasons I've explained, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 25 April 2024.

Emma Szkolar
Ombudsman