

The complaint

Mr X complains that Santander UK Plc (Santander) won't refund money he lost in an impersonation scam.

What happened

What Mr X says:

In 2020, Mr X applied to do a PhD in the USA but didn't follow it up and nothing initially happened. Three years later, he got a phone call and then emails. The emails purported to be from the US Embassy in the UAE. They said his application for the course had been approved and unused funding had been in place for the three years in the meantime. He was asked to make payments totalling around £20,000 (in USD) – otherwise he was threatened with not being able to travel to the USA again.

The scammers pointed Mr X to a website which proved to be a spoof. He felt under a lot of pressure to make the payments asked for.

Mr X made the following payment to the stated payee:

Date	Payment	Amount
12 June 2023	Faster international payment	£5,324.19 plus fee £25
Total		£5,349.19

Mr X tried to make a further payment of £14,414.81 to the same payee on 18 June 2023, but this was blocked by Santander and Mr X then cancelled it.

Because of the loss, Mr X has been affected both financially and mentally. He feels shame and embarrassment at what happened. He hasn't been able to tell his family or close friends about it. He has lost faith in financial institutions and doesn't use online banking anymore – because he doesn't trust it. So, he only uses telephone banking – which takes a lot more time and causes more stress.

Mr X says Santander should've done more to protect him – he says the bank should've intervened in the payment. It represented a sudden increase in spending and was a larger amount than was usual for him.

Mr X says Santander should refund the payment and pay compensation of £250, plus interest at 8% per annum.

What Santander said – November 2023:

- Mr X authorised the payment using his personal credentials.

- He set up the payee details and used a one-time password to authenticate the transaction.
- On the later payment for £14,414.81 (18 June 2024), no claim was raised about the first payment, so the bank didn't investigate it until Mr X later complained (in November 2023).
- Santander gave Mr X some guidance and tips on how to avoid fraud.
- The bank said they were trying to get a refund of money from the recipient bank but hadn't had any success so far.

Our investigation so far:

Mr X brought his complaint to us. Our investigator didn't uphold it. He said:

- The payment wasn't unusual or suspicious for Mr X to make. There had been previous large payments of a similar amount from Mr X's account.
- Mr X made frequent foreign payments.
- The account balance remained healthy after the payment.
- So, he didn't think Santander needed to intervene.
- Santander tried to get the money back, but without success.

Mr X didn't agree. He said the payment should've been considered unusual and should've been stopped. He asked that an ombudsman look 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.

I'm sorry to hear that Mr X has lost money in a cruel scam. It's not in question that he authorised and consented to the payment in this case. So although Mr X didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is

particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Santander acted fairly and reasonably in its dealings with Mr X when he made the payment, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to a UK beneficiary – and in this case, the payment was made to an overseas account.

The important matter here is whether this was a payment that Santander might reasonably have considered unusual, and therefore whether they should've held or stopped the payment and contacted Mr X about it.

I looked at Mr X's account history with Santander. And I don't think the payments was unusual for him. I can see he previously made several other, similar sized payments such as:

February 2023: £5,000
January 2023: £1,500
October 2022: £3,000
September 2022: £2,000

And – he did make regular international payments, albeit for lower amounts.

The nature of scam payments is also that they are made in rapid succession, within a few days of each other, and leave very little money in a customer's account. And in this case, this was a single payment and there was a balance of £11,798 credit remaining after the payment.

Also - there's a balance to be made; Santander has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments.

Therefore, in this case, for all these reasons put together, I think Santander acted reasonably in processing the payment – I don't think that I can reasonably say that Santander should have stopped the payment for further checks.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Santander took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money.

I can see that Mr X reported the scam to Santander on 22 June 2023. I can't see that the bank tried to get the money back until November 2023 - when Mr X complained to the bank.

So, I must consider what might have happened had Santander contacted the bank immediately Mr X reported the scam. But here, on balance, I think it's unlikely any refund request could've been successful – as it's in the nature of such scams that funds are paid

away (to the scammers) within hours or even minutes. And there was also an overseas bank involved which would be made it more unlikely there could be any recovery.

I can see Santander contacted the bank (in the USA) and after chasing for a response, were told early in December 2023 that no funds remained to be repaid.

In summary, I'm sorry Mr X has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but I can't reasonably hold Santander responsible for his loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr X to accept or reject my decision before 28 May 2024.

Martin Lord
Ombudsman