

The complaint

Mr B complains that Santander UK Plc (Santander) won't refund money he lost in a romance scam.

What happened

What Mr B says:

Mr B met someone on a dating website and after some exchanges, he realised she was underage. He stopped further contact with her. But someone claiming to be her father then entered the conversation and asked for money to pay for replacement phones and a laptop. He said if Mr B paid the money he would 'make this go away'. Mr B was worried about what the consequences might be and made the following payments:

Date	Payment	Amount
23 December 2023	Mobile phone payment	£1,300
23 December 2023	Mobile phone payment	£1,300
24 December 2023	Mobile phone payment	£850
27 December 2023	Mobile phone payment	£940
Total		£4,390

Mr B says he was scammed out of the money and asked Santander to refund the payments he made.

What Santander said:

Santander said Mr B had been blackmailed, and so the case couldn't be considered under the Contingent Reimbursement Model Code (CRM Code) because of that. So, the bank didn't refund any money. They said Mr B should report what happened to the police.

(continued)

Our investigation so far:

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

- The payments were higher than Mr B was used to making.
- But on balance, they were not of a value that meant Santander should've intervened.

- Santander presented warnings before Mr B made the first payment.
- He considered that even if Santander had stopped any of the payments and asked Mr B what he was doing, he wouldn't have been truthful about their purpose.

Mr B asked that an ombudsman look at his complaint. He said he was on anti-depressants at the time, and his judgement was impaired due to the stress he was put under. He says the police told him it was a scam. His complaint 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 B has lost money. It's not in question that he authorised and consented to the payments in this case. So although he 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 B when he made the payments, 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 the payments were the result of blackmail – and that isn't covered by the Code.

While this was a case of blackmail, I've gone on to consider Mr B's case as if it were a scam and applied the rules and guidance for where a scam takes place.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr B normally used his account – then we would expect Santander to consider intervening and spoken to Mr B about them. And here, I think it's reasonable to say

the payments were more than Mr B would normally make. The prior payments were for everyday spending and were always below £100.

But more importantly, 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. And here - these were payments for relatively low amounts.

Therefore, in this case, I think Santander acted reasonably in processing the payments – I don't think that I could reasonably say that Santander should have stopped the payments for further checks.

I did note that Santander flagged the first payment of £1,300 via the mobile app - and asked Mr B what it was for. He said it was for 'goods and services'; and said he had met the beneficiary before. So – it's fair to say Mr B wasn't completely truthful about the payment.

Therefore, I'm persuaded that even if Santander had stopped any of the payments and called Mr B – under the circumstances, I don't think it's likely that he would've told the bank what the payments were for, and they would've been allowed to go through.

But as I've said, I don't think Santander had a duty to stop these payments (because of their value) in any case.

I considered what Mr B has told us about his condition at the time. This must have been a very worrying and stressful time for him. But while I sympathise with that, I don't think it's reasonable to expect the bank to have known about what was happening, and therefore wouldn't have had to treat the payments any differently.

So, while I accept this was a difficult and upsetting experience for Mr B, I don't hold Santander as liable to refund the money.

Recovery

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. Santander contacted the bank that received the funds – to try to recover the lost money. And I note that only a few pence were returned. While that was disappointing for Mr B, I'm satisfied the bank did what they could to get the money back.

I'm sorry Mr B has had to contact us in these circumstances. I accept he's been the victim of blackmail, but I can't reasonably hold Santander responsible for his losses.

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My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 May 2024.

Martin Lord
Ombudsman