

The complaint

Mr and Mrs M complain that Santander UK Plc won't refund money they lost when they fell victim to what they believe was an investment scam.

What happened

The background of this complaint is well known to both parties so I'll only refer to the key events here.

In February 2022, Mrs M saw an advert online from someone she followed on social media who was running an investment opportunity. Mrs M says they were a pastor who used to attend her sister's church. Mrs M says she was told she could withdraw from the investment whenever she wanted, and so made a payment of £5,157.36 to a firm I will refer to as "B".

Mrs M says that in June 2022 she attempted a withdrawal but wasn't able to. She contacted the person she'd been speaking to a number of times but didn't get any help. It was only in October 2023 when Mrs M ran a check on B, that she says she saw they had filed for liquidation in September 2023. This, together with the lack of responses from B, led Mrs M to believe she had been scammed.

Mrs M complained to Santander who said that as the payment was made using a debit card, it wouldn't be reviewed under the Contingent Reimbursement Model (CRM) code. They also noted the payment was made into another account in Mrs M's name, where further transactions were then made. Santander also said that B was a legitimate one and therefore provided a service that Mrs M had utilised. And they noted that Mrs M had confirmed the funds in the account were accessed by a third party, although she wasn't aware how that happened. Santander explained that she would need to reach out to the administrator about this, as it involved a dispute with the merchant.

Because of this, Santander said they couldn't be held responsible for any losses. They did, however, pay £75 as compensation to apologise for poor service provided when the scam was reported.

Unhappy with Santander's response, Mr and Mrs M brought their complaint to our service.

Our investigator was of the opinion that the payment wasn't unusual or suspicious enough to warrant Santander carrying out any additional checks before processing it. He explained that one-off payments can be made and it wouldn't be expected for Santander to stop every single one.

He also explained that even if Santander had provided any scam warnings, he didn't think the scam would have been uncovered. And so, Mrs M would have still made the payment as she thought the investment was legitimate as she trusted the person who had presented it to her.

In relation to recovering the lost funds, our investigator said that based on the evidence, he didn't feel a chargeback would have been successful due to the length of time that had passed. So overall, he didn't believe Santander were responsible for any loss.

Mrs M didn't accept our investigator's view and so the complaint has been passed to me.

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 very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Having considered everything, I agree with the investigator and have decided not to uphold this complaint. I know this will come as a disappointment to Mr and Mrs M, so I will explain why I have reached my decision.

It is clear in this case that Mr and Mrs M have lost a lot of money. And while I do empathise with them, this doesn't automatically entitle them to a refund from Santander. It would only be fair for me to tell Santander to reimburse Mr and Mrs M if I thought they reasonably ought to have prevented the payment, or they unreasonably hindered any recovery of the funds.

Under the Payment Services Regulations (PSRs) and the terms of the account, Mr and Mrs M are presumed liable for any loss in the first instance, in circumstances where they authorise a payment. That said, in line with good industry practice, Santander should take proactive steps to identify and help prevent transactions that appear sufficiently unusual, uncharacteristic or suspicious that could involve fraud or be the result of a scam.

However, it is important to note that there are so many payments made by customers each day and so it wouldn't be realistic or reasonable to expect a bank to stop and check every payment. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising any disruption to genuine and legitimate payments.

Here, Mr and Mrs M's account was typically used for relatively low value day to day transactions – with only one payment over £1,000 made in the three months prior. That said, it isn't uncommon for consumers to make occasional higher value payments at times. And so, I don't think this payment was so unusual or suspicious whereby I would've expected Santander to have had sufficient reason to suspect Mrs M might be making it in relation to a scam – thereby warranting additional checks before processing it.

In any event, even if I were to conclude Santander should've carried out additional checks before processing the payment, I don't think it would've made a difference.

This is because while there were potential reasons for Santander to have concerns, such as the investment being promoted via social media, it seems there wasn't anything in the public domain indicating B – or the pastor – to be a scam. And so, even if Santander had concerns and directed Mrs M to carry out some further checks before making the payment, I think it's unlikely she would've had enough reason to question the legitimacy of the investment. This is particularly so due to the scammer being a pastor, who Mrs M's sister knew from her

church. And as Mrs M has told our service, she never thought he would do such a thing given his role as a pastor. Mrs M trusted this person and had no reason to doubt what she was being told. This trust was also evident when she attempted to withdraw funds in June/July 2022 but didn't receive a response, but believed she would have access to her funds eventually given the scammer's profession and social status.

Because of this, I don't think any warning or intervention by Santander would have stopped Mrs M from making the payment. And so, I won't be asking them to reimburse the funds lost.

I can see Santander have paid some compensation to Mr and Mrs M to apologise for poor service provided during their investigation. I think this was reasonable in the circumstances.

Recovery

I also need to consider whether Santander did enough after being advised of the alleged scam, to try and recover the funds.

As the payment was made by a debit card the chargeback process is relevant here. To explain, a chargeback isn't guaranteed to result in a refund as under the rules, a merchant can defend it if they don't agree with the request. We would also only expect a firm to raise a chargeback if it were likely to be successful.

Santander have confirmed that by the time they were notified of what had happened, it was too late to raise a chargeback, as one would have needed to have been raised within 120 days of the payment being made. Given the time that had passed, unfortunately, the chance of recovering any funds were very low.

It follows that I don't think Santander are responsible for the funds not being recoverable.

Overall, while I strongly empathise with Mr and Mrs M and what they have been through, I don't think Santander is responsible for the losses they have suffered. So, while I know this will come as a disappointment to Mr and Mrs M, I don't think Santander have acted unfairly by not refunding them.

My final decision

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 5 May 2025.

Danielle Padden
Ombudsman