

The complaint

Miss B is unhappy that Santander UK Plc (“Santander”) won’t refund her in full after she was a victim of a third-party scam.

What happened

The background to this complaint is well known to both parties. But briefly Miss B fell victim to a vehicle purchase scam in October 2023. She saw the vehicle on an online marketplace and transferred the agreed sum of £9,800 via four instalments as follows:

Date	Amount
10 October 2023	£950.00
11 October 2023	£1,950.00
12 October 2023	£2,900.00
13 October 2023	£4,000.00

When the vehicle didn’t arrive as agreed, Miss B grew concerned and raised a claim with Santander on 20 October 2023. Santander agreed to refund Miss B 50% of the transactions; so £4,900. But it did not refund the remaining 50% as it felt Miss B did not have a reasonable basis for believing this was a genuine situation. It said Miss B was buying a vehicle online at a much lower price than similar vehicles and she paid accounts in third party agent names without establishing a genuine link between the company and seller. It said one of the companies involved was showing as a chauffeur service on Company’s House and this should have alerted Miss B.

Miss B brought her complaint to our service. Our investigator didn’t agree Santander should refund the remaining sum as he didn’t think Miss B had a reasonable basis for believing this was a genuine purchase.

Miss B feels she took enough care to make sure the sale was right and wants a full refund, so the complaint has been passed to me for a 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 agree with the investigator broadly for the same reasons.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. There's no dispute here that Miss B authorised the payments – albeit she was tricked into making the payments. She thought she was paying for a motorhome, but this wasn't the case.

However, where a customer makes a payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

The CRM Code

When thinking about what is fair and reasonable in this case, I've considered whether Santander should have reimbursed Miss B in line with the provisions of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code it is signatory to and whether it ought to have done more to protect Miss B from the possibility of financial harm from fraud.

The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances.

It is for Santander to establish that one or more of the exceptions apply as set out under the CRM Code. The exception relevant to this case is:

- In all the circumstances at the time of the payment, in particular the characteristics of the Customer and the complexity and sophistication of the APP scam, the Customer made the payment without a reasonable basis for believing that: (i) the payee was the person the Customer was expecting to pay; (ii) the payment was for genuine goods or services; and/or (iii) the person or business with whom they transacted was legitimate.

There are further exceptions within the CRM Code, but they do not apply in this case.

The CRM Code also outlines the standards a firm is expected to meet. And it says that when assessing whether the firm has met those standards, consideration must be given to whether compliance with those standards would have had a material effect on preventing the APP scam that took place.

Did Santander meet its obligations under the CRM Code and should it have done anything further to prevent the payments?

The CRM Code says that, where firms identify scam risks, they should provide effective warnings to their customers. They should also be on the lookout for unusual activity.

Santander has already acknowledged it didn't do enough when it processed Miss B's payments and it has refunded her 50% of the transactions.

I appreciate Miss B has questioned whether Santander did anything at all and she has explained that, in her view, it did nothing to stop the payments other than the usual notifications that appear on the banking app when making any payment. I am not going to go into detail here because it is not material to the outcome. That is to say - whether Santander did nothing or something (but not enough) would lead to a partial (50%) refund under the Code in a scenario where one of the exceptions to reimbursement also applies.

So, I've gone on to consider whether it's fair for Santander to apply the exclusion under the Code which has resulted in it only paying Miss B 50% of the transactions.

Did Miss B have a reasonable basis for belief?

I need to consider not just whether Miss B believed she was paying for a motorhome but whether it was reasonable for her to do so. I've thought about the steps Miss B took to reassure herself about the legitimacy of the transaction and whether it was reasonable for her to proceed with the payments.

It's clear from the chain of emails with the seller, Miss B had a number of concerns about the purchase which she raised directly with the scammer. I accept Miss B was given an explanation around the payment method which appeared to provide a guaranteed option of returning the vehicle within a certain time frame – which likely reassured her she didn't necessarily need to view the vehicle first.

But the vehicle was quite some distance away from Miss B and the seller was offering this along with free delivery and returns free of charge. Including transportation and potential return costs alongside the low value of the vehicle. The deal was, in my view, too good to be true. Miss B did raise her concerns about the low price compared to other vehicles with the scammer. I appreciate she took the scammer's response to be reasonable (and from what she has said - made some further checks on the internet regarding the explanation she was given.

But even if I accepted the response Miss B received was enough here - this wasn't her only concern. Miss B also queried who the owner was and where the 'agent' (where the payment was going) fitted in. But I don't think the explanations in response to either of these queries was enough to reasonably have allayed those concerns. The fake business email address and link to track delivery also seemed to relate to another named company.

I appreciate Miss B did scrutinise some of the things she was told. But when I think about everything holistically, I think there was enough going on here to reasonably have caused Miss B sufficient concern not to proceed.

Ultimately Miss B placed a lot of trust in a stranger on a social media marketplace. There was no evidence that the person Miss B was dealing actually owned the vehicle, she was being asked to pay a completely separate company to the one allegedly carrying out the transportation and along with the low value at which it was being sold, I consider that Miss B ought to have had greater concerns about the deal and that, in turn, ought to have led to a greater degree of scrutiny on her part.

Recovery of funds

I expect banks to take reasonable steps to try to recover the money their customers have lost, once they are made aware of a scam. But from the evidence I've seen, the money was removed from the account it was sent to before Santander was made aware of this scam. That's not unusual, as scammers usually remove funds within hours.

So, I don't think anything I would reasonably have expected Santander to have done would have led to the money Miss B lost being recovered, and I don't think it would be reasonable to require it to do anything further.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 3 March 2025.

Kathryn Milne
Ombudsman