

The complaint

Mr H has complained that Santander UK Plc (“Santander”) failed to protect him from falling victim to an investment scam.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mr H has used a professional representative to refer his complaint to this service. For the purposes of my decision, I’ll refer directly to Mr H, but I’d like to reassure Mr H and his representative that I’ve considered everything both parties have said.

Mr H says that he came across an investment opportunity on a messaging app when he was contacted by someone posing as an investment mentor (“the scammer”). He’s explained that he was admitted into a group chat with around 150 other alleged investors and given lots of high-quality information about an investment opportunity, as well as being provided evidence showing the profits that he could make.

Mr H was directed to download an application to complete the investments, which he did, until it suddenly stopped working. He says he was encouraged by the scammer to invest more by being offered bonuses when investing certain sums. He says he was convinced to continue investing because the app he was using looked convincing, and the scammer was professional and intelligent. He also says he was convinced he was making a genuine investment as he was using an app that had been running for some time, and he could gradually see his profits growing over time which looked realistic.

Between November 2022 and March 2023 Mr H sent £74,500 to the scammer. In order to fund the supposed investments he made payments from his Santander account to another of his own accounts, which he then transferred on to a cryptocurrency exchange platform, and ultimately he sent the cryptocurrency to the scammer, believing he was funding the investments.

The payments Mr H made were as follows:

Date	Amount
23/11/2022	£9,000.00
24/11/2022	£1,000.00
16/12/2022	£5,000.00
21/12/2022	£5,000.00
21/12/2022	£5,000.00
02/01/2023	£5,000.00
11/02/2023	£10,000.00
20/02/2023	£5,000.00
20/02/2023	£5,000.00

01/03/2023	£15,000.00
05/03/2023	£2,000.00
06/03/2023	£7,500.00
Total	£74,500.00

Mr H made a complaint to Santander as he says it didn't intervene when he made any of the payments. He says that although Santander asked him for the purpose of one of the payments, he didn't receive any specific advice in relation to the scam he could potentially be falling victim to.

Santander didn't uphold Mr H's complaint. It said that as Mr H sent the payments to another account in his own name, it couldn't be responsible for how the funds were then used.

Mr H remained unhappy so he referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained that he didn't think the payments Mr H had made were particularly out of character for him. So he didn't think Santander should've detected that they might've been related to a scam.

As Mr H didn't accept the investigator's opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Mr H but having considered everything I'm afraid I'm not upholding his complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mr H authorised these payments from leaving his account. It's accepted by all parties that Mr H gave the instructions to Santander and Santander made the payments in line with those instructions, and in line with the terms and conditions of Mr H's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

The first thing I've thought about is whether the payments indicated, or ought to have indicated, that Mr H might've been at risk of financial harm.

All of the payments were made to an account in Mr H's own name – which was confirmed by the "Confirmation of Payee" facility. They were also relatively spaced out; it's usual for scammers to encourage victims to send multiple payments on the same day, or in very quick succession. But in Mr H's case he sent 12 payments over a period of around three and a half months. Additionally, the pattern of payments isn't typical for a scam. The amounts fluctuated rather than increasing in size, which is more typical of a scam and would generally be more likely to alert a business that its customer might be at risk of harm.

I've then gone on to consider how Mr H generally used his account. Whilst it appears Mr H used his account for day-to-day banking, in October 2022 Mr H made three similar-sized payments to those he sent to the scammer, two for £2,000 and one of £10,000. These appear to have been sent to an investment platform, and Mr H also made a payment of £10,000 to another account in his own name. With this in mind, the payments Mr H made to the scammer aren't particularly out of character, based on the previous activity of his account, so I wouldn't have expected it to intervene,

Nevertheless, I've seen in Santander's notes that it appears to have blocked the transaction for £10,000 until it spoke to Mr H to confirm it wasn't fraudulent. I haven't been provided with a recording of that call but it looks as though Santander confirmed with Mr H that he was sending money to his own account, and checked he wasn't being asked to lie to the bank or encouraged to make the payment as part of an investigation. The notes also suggest it gave Mr H a warning about "safe account" scams. Although Santander didn't probe any further into the purpose of the payment, I think the intervention here was proportionate based on what it knew about Mr H and the payment, and considering the answers he gave it, so I don't think it ought to have done more.

Even if Santander had intervened further, I don't think it would've made a difference here. I say this because thinking about the answers it's likely Mr H would've given about the purpose of the payments and the returns he was making, and why he was satisfied the payments were genuine, I don't think Santander would've had cause for concern or would've refused to make the payments,

Bearing all of the above in mind, I don't think Santander ought to have done more than it did to prevent Mr H from this scam. Whilst I don't want to undermine the significant impact that losing this amount of money had on Mr H, in order for me to hold Santander responsible for it I'd need to think it should've been aware of, and tried to prevent, what happened. But I don't think that's the case here.

Recovery of the funds

As the payments were made to an account in Mr H's own name, which he had control of, Santander couldn't recover any of the funds. Although I've seen evidence that Santander contacted the receiving bank, Mr H has already explained that he forwarded the funds from his account there to the scammer via a cryptocurrency platform. So it's not unreasonable that Santander wasn't able to recover any of Mr H's losses.

Although I might not have specifically addressed each point Mr H has raised, I've read and thought carefully about everything he's said. I'm very sorry that Mr H has fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold Santander responsible for that.

My final decision

I do not uphold Mr H's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 10 September 2024.

Sam Wade
Ombudsman