

The complaint

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

What happened

What Mr K says:

Mr K got a message on WhatsApp offering him part time work. This could be done alongside his existing business. He researched the company and considered it to be legitimate – it was based in the USA.

The job was to complete 'tasks' – these were around 'data optimisation', whereby he boosted the appeal of apps in various stores. These apps were then said to become available to a wider pool of people and therefore sales would be increased.

As this resulted in increased sales in the apps' merchants, Mr K would earn commission. If he completed three sets of 40 tasks for five days, he could earn £250.

As Mr K completed sets of tasks, he had to make deposits to the platform from his various bank accounts. These were sent to Mr K's existing crypto wallet with a crypto exchange and from there to buy crypto currency to pay to the platform. Some payments were direct to the crypto exchange, and some were via his other banks. Mr K was asked to open an account with bank X. He was told the amounts would be repaid to him along with the commission he had earned.

The payments from Mr K's Santander account were (**continued**):

Date	Payment	Amount
11 August 2023	Debit card – to crypto exchange	£32.55
13 August 2023	Debit card – to crypto exchange	£1,222.05
19 August 2023	Faster payment to bank X	£20

22 August 2023	Faster payment to bank X	£100
24 August 2023	Faster payment to bank X	£900
5 September 2023	Faster payment to crypto exchange	£5,000 (<i>intervention call</i>)
5 September 2023	Faster payment to bank X	£1,000
6 September 2023	Faster payment to crypto exchange	£2,000
5 September 2023	Faster payment to bank X	£1,000
6 September 2023	Faster payment to crypto exchange	£2,000
6 September 2023	Faster payment to bank X	£1,000
7 September 2023	Faster payment to bank X	£2,000
7 September 2023	Faster payment to crypto exchange	£2,000
9 September 2023	Faster payment to bank X	£1,000
9 September 2023	Faster payment to crypto exchange	£1,000
11 September 2023	Faster payment to bank X	£2,000
13 September 2023	Faster payment to bank X	£2,000
13 September 2023	Faster payment to bank X	£2,600
14 September 2023	Faster payment to bank X	£2,500
15 September 2023	Faster payment to bank X	£700
15 September 2023	Faster payment to bank X	£2,000
23 September 2023	Faster payment to bank X	£2,500
25 September 2023	Faster payment to bank X	£3,000
28 September 2023	Faster payment to bank X	£2,000
28 September 2023	Faster payment to bank X	£700
28 September 2023	Faster payment to bank X	£1,000
28 September 2023	Faster payment to bank X	£2,500
29 September 2023	Faster payment to bank X	£3,000
10 October 2023	Faster payment to crypto exchange	£100
10 October 2023	Debit card payment to bank X	£1,606.72

12 October 2023	Debit card – to crypto exchange	£1,200
12 October 2023	Credit from bank X	(£1,205.04)
10 October 2023	Debit card payment to bank X	£1,205.04
12 October 2023	Debit card – to crypto exchange	£1,200
14 October 2023	Faster payment to bank Y	£1,000
27 October 2023	Debit card – to crypto exchange	£852.87
Net funds paid from Santander		£52,734

But when it came to making withdrawals, Mr K was asked to pay money for tax, money laundering fees and other withdrawal fees. He was desperate to get his money back so paid a number of these demands. He took out two loans for £25,000 and £10,000 from his other banks to fund some of the payments.

No money was sent back to him. The scammers then stopped all contact.

As a result of the scam, Mr K has lost most of his savings, and now has two large loans to pay back over the next five years. This is a constant reminder to him of what happened. He suffers from a lack of sleep and stress. He's lost a lot of weight. He is struggling to support his family and school-age children.

Mr K says Santander should've done more to protect him. There was no effective intervention or warnings given. He says Santander should refund the money he's lost plus interest at 8% per annum and compensation of £300. He also says Santander should reimburse his legal fees.

There were four banks involved in the scam – Santander, bank X (an online bank), bank Y (a 'high street' bank) and bank Z (a 'high street' bank). Complaints about all banks have been brought to this service.

What Santander said:

The bank said the payments weren't covered under the Contingent Reimbursement Model (CRM) code as they were either made by debit card or to an account in Mr K's name – both of which aren't covered under the code. Santander didn't refund any money.

Our investigation so far:

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

- Santander intervened in the payment for £5,000 on 5 September 2023. Mr K wasn't truthful on the call, as he said:

- No one had asked him to mislead the bank, which she said was probably not the case.
 - The bank had asked whether he had been asked to set up an online investment account or wallet – and Mr K said that wasn't the case.
 - Mr K misled Santander as he told the advisor the payment was for 'investment' when that wasn't the real reason. That was despite the advisor saying that he must be truthful and that if he had been told to mislead the bank (by giving a different payment purpose) that was likely a scam.
 - Mr K hadn't been able to provide all the WhatsApp chat – so it wasn't clear if he had been coached or not, but she said it was likely he had been told to mislead the bank.
 - Mr K hadn't been truthful in his application for loans – he said they were for car purchase.
- Santander could only be expected to ask questions based on what they were told – and she felt that had the bank intervened in later payments, Mr K would still have gone ahead with them.

So, she didn't recommend any money should be refunded.

Mr K didn't agree. He said it wasn't fair that the outcome of his complaint be judged based on one call. He asked that an ombudsman look at his complaint, and so it has come 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 sorry to hear that Mr K has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr K 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 K 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 it applies to faster payments made to another UK beneficiary– and in this case, the payments were made by debit card, and to an account in Mr K's name (either his crypto wallet or his account at bank X.)

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr K normally used his account – then we would expect Santander to have intervened and spoken to him.

In this respect, the payments were unusual compared to Mr K's normal account activity. He made a small number of payments each month – two or three –and for less than £1,000. It doesn't look as if he used Santander as his main bank account.

For these reasons, we would have expected Santander to intervene – and the bank did so on 5 September 2023. The payment for £5,000 was stopped and the bank contacted Mr K. I listened to the call, and it is an important one when deciding the outcome of this complaint.

Santander call handler: Why are you making this payment? Mr K: investment.

Santander call handler: What kind of platform are you investing in? Mr K: (crypto exchange name).

Santander call handler: Is it your account? Mr K: yes

Santander call handler: I am now going to go through a scam chat to make you aware of scams. It's important you are honest with us in this conversation so we can protect you...if this is part of a scam, it is unlikely there will be any chance of getting your money back. Criminals can be convincing and ask customers to mislead the bank to avoid detection. If anyone has told you to lie or mislead it will be a scam. This includes giving a different payment reason.

Santander call handler: Has anyone asked you to lie or mislead? Mr K: no.

Santander call handler: You shouldn't go ahead if you found this (contact) via social media, have you invested before? Mr K: no worries.

Santander call handler: It could be a scam if the returns are too good to be true....if this is a scam you won't be able to recover your money. Mr K – confirmed he wanted to go ahead and the payment was released.

I considered this call. Mr K wasn't honest with the bank about the purpose of the payment – which was to pay money to the job opportunity. If he had been honest, the scam would likely have been uncovered – as this was (and is) a common scam which the bank would've been well aware of. But in saying the payment was for 'investment', the bank could not help Mr K in that way.

Mr K also wasn't honest on the call - as he didn't admit he had been contacted via social media; nor did he say the returns he had been promised were high – accepting that these warnings were tailored to an investment scam.

I also listened to three other calls between Mr K and bank Y – another of his banks.

Call – 12 August 2023: payment £20:

Bank Y stopped this payment which was in favour of bank X.

Bank Y's call handler: were you asked to set up this account by someone? Mr K: no.

Bank Y's call handler: What will you be using it for? Mr K: transferring money.

Bank Y's call handler: To who? Mr K: don't know yet.

Bank Y's call handler: So why open an account if you don't know who you will send money to? Mr K: someone asked me to open it.

Bank Y's call handler: Who? So someone did ask you to open it? Have you been asked to set up this account by someone? Have you been asked by someone to open this account? Mr K: yes, by someone I know. Someone recommended it.

Bank Y's call handler: Please be more specific – I deal with fraud. Mr K: a friend said to open an account with bank X....to make a payment to a currency exchange.

Bank Y's call handler then says she wasn't comfortable. She said: 'I'm not confident you know what you're dealing with' and 'you won't believe how many customers have been asked by someone to open accounts with bank X to start moving money'. And Mr K's account was blocked. He was asked to go to a branch with ID.

Call – 15 August 2023: payment £5,000:

Mr K tried to make a payment for £5,000 to his account at bank X. It was stopped and Mr K went to a branch as he'd been asked to do. He called from the branch and told bank Y's fraud advisor that the money was to be used to be sent to his sister in Germany.

Call – 15 August 2023: payment £5,000:

This further payment was also stopped. Mr K called bank Y again. He was frustrated and said to bank Y 'this is unacceptable' and 'this is not right' and 'is every payment going to be stopped from now on?'

Bank Y's call handler: what is the reason for the transfer? Mr K: 'I want it in my other account' and 'I know everything...yes (you are) trying to prevent fraud'. Mr K said he hadn't been asked to make the payment by someone else, or to give a cover story.

I carefully considered all of these calls in the context of Mr K's complaint. And I think they show:

- Mr K was evasive as to the purpose of the payments being made. He gave different stories to each call handler/bank. So, it wasn't possible for any bank to give him a tailored warning about the job scam taking place; or to protect him.
- He was warned about not telling the truth.
- He was warned that if the payments were a scam, the money couldn't be recovered.
- He didn't disclose the involvement of a third party – the scammers.
- He was given several warnings about the activities of scammers.
- He said he hadn't been asked to open an account with bank X – when he had been so.

After the payment of £5,000 on 5 September 2023, Mr K went on to make many other payments after that time. There is an argument that given the volume of payments being made – albeit of a relatively low value – that Santander should've intervened again.

I considered what might have happened had the bank intervened again on 13 September 2023 – with the payment of £2,600. By that time, Mr K had made 13 payments in the previous six days totalling £24,600. This was out of character for Mr K and it would've been reasonable for Santander to contact Mr K again at or around that time.

But here, I'm persuaded that it was likely that Mr K would've been evasive again and not disclosed the real reason for the transfers.

I also looked at the WhatsApp chats between Mr K and the scammer – and by that time it's fair to say that he was desperate to get the scammer to pay him the money back. And he thought the only way he could make that happen was to meet their demands for more money– there were several apparent promises made that this would be the 'last time' and his money would then be paid back to him – but it wasn't.

I think that on balance therefore, even if Santander had intervened again, Mr K would not have told the bank the truth about what was going on – he could only see he needed to pay

more money to get anything back. This is also supported by the fact that that he took out two loans to fund the further payments – he could see that was his only way forward.

Therefore, I don't think he would've been honest with the bank if any further intervention had been made; and any intervention wouldn't have made any difference. I'm persuaded that Mr K would've gone ahead despite any contact from Santander.

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.

And here, the funds went from the bank account to a crypto currency merchant and the loss occurred when crypto was then forwarded to the scammers. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover.

Mr K has lost a lot of money. He's explained why the money was important to him, and the impact his losses have had. I was sorry to learn of his circumstances. He will therefore be disappointed by my decision, but I'm not going to ask Santander to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 1 January 2025.

Martin Lord
Ombudsman