

The complaint

Miss E complains that Santander UK Plc (Santander) won't refund money she lost in a jobs scam.

What happened

What Miss E says:

Miss E was looking to earn extra money to pay living costs and generate a second income. She was approached on social media in August 2023 by someone who described a job she could do.

On WhatsApp, she was told about a job she could do from home, and it was flexible. She was told the job was to leave product reviews to boost the sales of online items by making them seem more popular. Miss E went through the training which appeared professional, and the website seemed credible. She was added to an apparent group of 40 other workers.

The scammers came across as inclusive and friendly. She followed their instructions closely.

The scammer said they'd put in £50 for her at the start. And on 18 August 2023, she was able to make a withdrawal (to her crypto wallet). Miss E was told she needed to invest her own funds, which she could then withdraw at the end of the month.

She was then told her account had fallen into a negative balance and she needed to put that right before being able to leave more reviews.

She made the following payments by debit card:

Date/ time	Payment	Amount
20 August 2023 – 1.58pm	Debit card to crypto wallet	£1,950
20 August 2023 – 2.00pm	Debit card to crypto wallet	£70
20 August 2023 – 3.53pm	Debit card to crypto wallet	£1,000
Total		£3,020

The scammer then asked for more funds (£7,000) which Miss E didn't have. The scammer then cut off all contact and Miss E realised she'd been scammed.

Miss E says Santander should've done more to protect her. She didn't get any warnings from the bank – she says there were 'red flags' because of the large payments made to a new payee. If the bank had warned her, she says she wouldn't have gone ahead with the payments and avoided her losses.

As a result of what happened, Miss E has lost trust in people and feels she's let herself and her family down. She feels ashamed and embarrassed and is now short of money – she lives from payday to payday. She is concerned about the cost of living.

Miss E says Santander should refund the money she's lost, plus interest at 8% per annum and compensation of £250.

Santander said the Contingent Reimbursement Model (CRM) code didn't apply as the payments were made by debit card.

Our investigation so far:

Miss E brought her complaint to us. Our investigator said:

- The first two payments weren't unusual enough to be refunded. They were the first payments to the scammer and were for relatively low values. So, Santander didn't need to intervene in them.
- But by the time of the third payment, the bank should've done more. This was the third successive payment to the same payee, in quick succession and on the same day. It was also in favour of a known crypto currency merchant.
- Santander should've sent Miss E a warning – this could then have highlighted the risks. Depending on Miss E's responses, this could then have been followed by a tailored warning - and the payment would likely have been stopped.
- She didn't think Miss E should bear responsibility for any of the loss of £1,000 as the scheme seemed legitimate and credible; she wasn't coached to ignore warnings; and she was told she got a payment on 18 August 2023, which added legitimacy to the scheme.

Miss E accepted the findings, but Santander didn't. The bank said card payments are not covered by the CRM code, and such payments aren't subject to the same scrutiny as bill payments. The funds were transferred into an account in Miss E's own name. So, the bank said they weren't liable to refund any of the money.

Because Santander didn't agree, Miss E's 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 Miss E has lost money in a cruel scam. It's not in question that she authorised and consented to the payments in this case. So although Miss E didn't intend for the money to go to a scammer, she 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 Miss E when she 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 a UK beneficiary – and in this case, the payments were made by debit card.

The first consideration here is: if the payment was of a sufficient size and was out of character with how Miss E normally used her account. And here, I can see she made fairly regular faster payments or withdrawals of up to about £500. For example:

August 2023: £296.73

July 2023: £500; £400; £300; £200; £370; £300; £320; £500; £500

June 2023: £500; £300; £250; £550

I also have to be mindful that in addition to this, 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. In this case, for all these reasons, I think Santander acted reasonably in processing the first two payments.

But considering the third payment – this was the third such payment to the same payee within two hours, and on the same day. While the value of the payment was still relatively low, I think it's reasonable that Santander should have sent at least an automated warning to Miss E – this could've been a general warning about scams and asked her what the payment was for. The bank could then have provided a more tailored warning about what she was doing. And of course if she then chose to go ahead, then that would've been at her own risk.

But here, there wasn't any such intervention by Santander. And so, I think it's only reasonable that the bank is liable to refund the £1,000 payment to Miss E.

Contributory Negligence:

But that's not the end of the story here. I also considered whether Miss E could've done

more to protect herself and whether she should therefore reasonably share some of her losses. There is an argument she should as:

- She didn't do any research into the job offer.
- There wasn't any written terms and conditions, or contract as would normally be the case with a genuine job offer.
- No credible employer would expect an employee to pay money to the firm to get income, as was the case here.

But against this, the scheme did appear credible, the website was professional, and the WhatsApp chats were engaging and convincing. I've reviewed these. And I also have to be mindful of the amount of money here – given that Miss E will have to stand the loss of most of the money, I don't think it's reasonable to make another (fairly low value) deduction in the circumstances of this case.

So, I am not making a deduction for contributory negligence.

I've considered whether Santander should be asked to pay the requested compensation of £250, but in the overall circumstances of this complaint, I don't think that's fair – while Miss E has suffered a lot from what happened, I think this was largely due to the scammers' actions rather than Santander's.

Putting things right

Santander should refund £1,000, plus interest at 8% per annum simple.

My final decision

I uphold this complaint. must:

- Refund £1,000 plus interest at 8% per annum simple from the date of the payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 6 September 2024.

Martin Lord
Ombudsman