

## **The complaint**

Mr D complains that Santander UK Plc won't refund the money he says he lost to a scam.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of what happened here.

Mr C engaged the services of a contractor – which I'll call A – to do some work at his property. Mr D had searched online for a suitable contractor and had come across a website for a company which I'll call P. Mr D sent P photos and details of the work that needed doing and was given a quote, which he accepted. Mr D was then asked to pay 50% of the quote as a deposit. Mr D made this payment on 10 January 2024, he was asked to pay this to an account in A's name. But when nobody turned up to complete the agreed work, Mr D asked for his deposit to be refunded. The contractor claimed more than once that the refund was on its way, but ultimately Mr D did not receive his money back, so he reported the payment to Santander as a scam.

Santander looked into what had happened, but said Mr D wasn't eligible for a refund under the relevant regulations as it didn't think he had been the victim of a scam. It said it thought this was more likely a private civil dispute between Mr D and the contractor.

Unhappy with Santander's response, Mr D brought his complaint to this service and one of our investigators looked into things. But they agreed with Santander that this was most likely a civil dispute, and so Mr D was not entitled to a refund of the payment he had made. Mr D remained unhappy, he says A had no intention to do the work they had been paid to do. He has pointed to online reviews for A and for related companies which suggest that others have had the same experience as him, and he believes there are various aspects of what happened here that suggest A is acting fraudulently. So, as the case could not be resolved informally, it's 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 and having thought very carefully about Santander's actions, I agree with the findings set out by our investigator. I do appreciate how disappointing this will be for Mr D but, whilst I'm sorry to hear of what's happened, I don't think I can fairly hold Santander liable for his loss.

This is because not all cases where individuals have lost sums of money are in fact fraudulent and/or a scam. So, whilst I can quite understand why Mr D feels that he has been scammed, there is a high legal threshold or burden of proof for fraud and there are a number of potential reasons (other than a scam) for the breakdown in a relationship between two parties and for a dispute to exist.

When considering what is fair and reasonable in this case, I've thought about the Contingent Reimbursement Model Code (the CRM Code) which Santander has signed up to and which was in force at the time Mr D made this payment.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam. So, I've thought about whether the CRM code applies in the circumstances of this complaint, and whether Lloyds therefore ought to reimburse Mr D under the provisions of the CRM Code.

The CRM Code is quite explicit that it doesn't apply to all push payments. It says:

*"DS2(2) This code does not apply to:*

*(b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."*

Santander is of the opinion that Mr D's circumstances fall into this definition of a private civil dispute and I agree that this is most likely the case here. I'm not persuaded that I can safely say with any certainty, based on what I know and what the evidence shows, that A set out with an intent to defraud Mr D from the outset. It seems more likely to me that this is a dispute about a contractor failing to do the work agreed or to refund the deposit paid.

Mr D argues that A had no intention of doing the work. But the evidence I've seen does not support that. While I cannot share details of what I've seen, we have received information from A's bank which does not suggest that A has been acting fraudulently. A's bank is satisfied it is a legitimate business. A is also registered with companies house, and maintains an online presence. And from the online reviews we have seen, while it is clear that there are concerns from some customers about the quality of work and about the professionalism of A's employees, A does appear to have been regularly carrying out work for customers, this is not what one would expect to see if A was a scammer.

With this in mind, I'm satisfied that A does appear to have been operating a legitimate business. And it's clear from what has happened that Mr D paid a deposit for services which have not been provided, so I'm satisfied that this situation meets the definition of a civil dispute as set out in the CRM code, this means that Mr D is not entitled to a refund from Santander under the Code.

I note what Mr D has said about how the CRM code defines an APP scam, specifically that it can be defined as:

*"The customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person."*

But given that Mr D's emails show that he was told he would be making the payment to A (rather than to P) before he sent the funds, I don't think I can reasonably say he was deceived into paying a different person.

I appreciate Mr D will not agree, but from Santander's point of view this situation doesn't display the hallmarks most typically associated with a scam. This is not to say that there is no issue at all between Mr D and A, clearly there is. But this type of dispute isn't something that the CRM Code covers.

I know this will be a huge disappointment to Mr D. I appreciate he feels strongly about this case, and that he has lost a significant amount of money here. And some of the information

Mr D has sent us does suggest that A wasn't always acting professionally, but that does not mean that this was a scam, rather than a case of poor business practices. So, for the reasons I've explained above, I do not consider that the payment in dispute here is covered under the CRM Code, or that it would be fair to hold Santander responsible for the money lost.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 5 December 2024.

Sophie Mitchell  
**Ombudsman**