

The complaint

Mr V has complained, via his representative, that Santander UK Plc didn't do enough to protect him from being a victim of a scam. Mr V has claimed that he's suffered a financial loss as a result.

What happened

Mr V has said that during 2022 and 2023 he saw several adverts for cryptocurrency investments. He found one website for a cryptocurrency investment provider which he believed to be professional and genuine. Mr V decided to register his personal details on that website. In this decision I will refer to this cryptocurrency investment provider as "*Firm A*".

Having registered his details, Mr V then received a telephone call from a representative of Firm A. They told Mr V that they would be his account manager. In this decision I will refer to this representative from Firm A as "*the scammer*".

The scammer told Mr V that he could open a trading account with the payment of a small deposit. Mr V decided that he would go ahead and set up a trading account with Firm A and sent a copy of his passport, driving licence and a utility bill to the scammer as he was told this was needed to meet anti-money laundering rules.

Mr V then downloaded software to his computer to allow the scammer access to his computer screen. The scammer created a trading account for Mr V, showed him how this worked, and gave Mr V his personal log in details. Mr V was then able to log into his trading account through Firm A's online portal. Mr V made a payment of £1,000 to purchase cryptocurrency from a cryptocurrency provider from his Santander UK Plc (Santander) bank account on 19 January 2023. Mr V used his Santander bank account debit card to make this payment.

Mr V made another payment of £1,000 through his Santander bank account debit card to purchase cryptocurrency from a cryptocurrency provider on 16 February 2023, followed by two further payments to purchase cryptocurrency, each for £1,000, on 20 February 2023. These two further payments were also made through Mr V's Santander bank account debit card.

Mr V monitored his Firm A trading account and was pleased with the investment returns that he could see online. He decided to crystallise his profits. He contacted the scammer to say that he wanted to withdraw his money, but was told that before he could do this, he would have to pay various taxes and costs. At that point Mr V realised that he'd been victim to a scam.

Mr V says he contacted Santander immediately, who told him that it would investigate what had happened. Santander replied to Mr V to tell him that it had fully investigated his case and had concluded that he'd given authorisation for the disputed transactions to go through and therefore Santander wasn't liable for any financial loss he'd suffered.

Mr V brought his complaint about Santander to the Financial Ombudsman Service via his legal representative. Mr V's representative said that the payments that Mr V made in connection to the scam were out of character for him and were out of line with the usual activity seen on his Santander bank account and that therefore Santander should have realised that Mr V was likely falling victim to a scam. Mr V's representative said that Santander should return £4,000 to Mr V together with interest calculated at 8% and compensation of £250.

One of our Investigators reviewed Mr V's complaint. Their view was that Santander hadn't done anything wrong, so didn't uphold Mr V's complaint. Mr V didn't agree with our Investigator's view, so has asked for his complaint to be considered by an Ombudsman.

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.

In line with the Payment Services Regulations 2017 (PSRs), Santander is expected to execute authorised payment instructions without undue delay. It's agreed that Mr V authorised the payments he is disputing, albeit he did so due to being tricked by a scam. So, the starting position is that Mr V is liable for them.

That said, there are circumstances when it might be appropriate for Santander to take additional steps before processing a payment. Such as when there are grounds to suspect it presents a fraud risk. That might occur when a payment is significantly unusual or uncharacteristic compared to the normal use of the account. And/or if the account activity fits a known pattern of fraud.

The payments that Mr V sent to the scammer were made in January and February 2023, which was after the introduction of the Contingent Reimbursement Model (CRM) Code, which was introduced in May 2019 to offer consumers greater protection if they fall victim to an authorised push payment scam. However, I don't think that this Code is applicable in this case as Mr V made the payments through his bank debit card and not via electronic transfer. I'm therefore unable to consider the CRM Code in this complaint, as debit card payments are not covered by the Code.

I have however still considered whether I think that Santander should have done more to protect Mr V from the fraud that took place. In doing so I've reviewed Mr V's Santander bank account for the months leading up to when Mr V made the payments made in connection to the scam. I've also reviewed Mr V's bank statements for the period during which the payments in connection to the scam were made.

From this I can see that up until early February 2023 Mr V was maintaining a high balance in his Santander account. For example, on 6 January 2023 the balance stood at over £19,000. I also note that whilst Mr V had a reasonably high volume of payments being made from his Santander bank account each month, these were generally for lower amounts than what was sent in connection to the scam.

But having said that, payments for amounts like those he sent in connection with the scam did still occur. For example, on 14 January 2023, so six days before Mr V sent the first

payment in connection to the scam, he made a payment of £940 through his debit card. Also on 29 January 2023, which was nine days after Mr V made his first payment in connection to the scam, Mr V made a “*faster payment*” of £1,281 from his Santander bank account.

I've also noted that Mr V would make multiple payment to the same payee on the same day, or in close time proximity. For example, to one payee Mr V sent a payment of £100 on 18 January 2023, three separate payments totalling £410 on 19 January and two separate payments totalling £200 on 21 January 2023. Further payments were sent to the same payee through the rest of January 2023 which totalled £1,071. A total of 17 separate payments were made to the same payee between 18 January 2023 and 31 January 2023 inclusive which totalled £1,781.

My conclusion from this is that a payment of £1,000 made on Mr V's debit card, whilst not an amount that Mr V frequently paid through his debit card, was not so unusual or such a large sum for Mr V pay to a single payee to have meant that Santander should have intervened further. I might however have thought it would've been reasonable for Santander to have intervened further if the payments to the scammer had resulted in the balance of Mr V's bank account being cleared, or if they had resulted in Mr V's bank account becoming overdrawn. But I've not seen any evidence to show that this was the case.

Mr V's representative has said that Santander should have reached out to Mr V and that it had an opportunity to stop the scam. Mr V's representative has added: “*Simple questioning would have lead to honest answers from (Mr V) which would have prevented the scam. In addition to the above, there is duplicated payments on 20 February 2023. We believe these should have been investigated as this is a common indication of a scam occurring on his bank account*”.

I've therefore also carefully considered the claims made by Mr V's representative and have also studied Mr V's response to our Service when asked about what communication he'd had with the scammer. In this response Mr V said:

“In response to your email I can confirm that the scammers seemed very genuine and professional. They did everything to build your trust and even had their own, what seemed to be, bona fide web site. Obviously the dealings I had with them was some time ago and I can't recall every single detail of conversation with them. What I do remember is the scammers asking me to contact the Bank to authorise the payments. They told me the Bank would query the payment but as everything was legitimate and genuine that I should just confirm that I was happy to authorise the payment and they would proceed accordingly. They duly told me I would make very big returns on my investment and clearly at the time I didn't realise I was being scammed. I do not know what account the payment was made to or indeed whether the Bank knew this was a dodgy scam site where the payment was being sent to.”

I think that Mr V is saying in this response that he had been told by the scammer that Santander would contact him to question the payment he wanted to make, but that Mr V should still authorise the payment. I think it's reasonable to conclude from this that this is what Mr V did.

Mr V has also provided this service with a copy of three online discussions that he had with the scammers. Mr V has said that aside from these three discussions and other two emails, all his other communication with the scammer was by telephone. In the online discussions that Mr V has provided, Mr V is asked online by the scammer on 16 February 2023: “*So what are the updates with the bank?*” Mr V then replies to the scammer: “*All sorted with the Bank*”.

I think that Mr V was telling the scammer that he had authorised the payments with Santander, so that they could proceed, as Mr V has said he'd been told to do by the scammer.

Mr V's representative has also said that Santander should have further investigated the duplicate payments that Mr V sent on 20 February 2023. But I think that given the size of the transactions completed by Mr V, and the normal activity on his account that I've detailed above, I don't think it was unreasonable that the duplicate payments didn't flag as suspicious to Santander, despite two payments being sent on the same day.

Mr V's representative has also said that Santander should've realised that Mr V was likely falling victim to an elaborate investment scam and that Mr V hadn't been prompted to give false answers to any questions Santander may have asked. Mr V's representative has further claimed that if Santander had asked Mr V what the payments were for then it's likely that the scam would have been detected.

The representative has added that they believe Mr V would likely have explained to Santander that he had been talking to, and acting under the instructions of, a cryptocurrency trader. But whilst I've not seen any evidence to show that Mr V had been told by the scammer to give false answers, Mr V has said he was told to confirm to Santander that he was happy to authorise the payment, which is what I think he did.

I have however considered the destination of the four payments that Mr V sent to the scammer in January and February 2023. From the payee names shown on Mr V's bank statements I think it would be reasonable to conclude that the transactions were identifiably cryptocurrency. I say this because, based on information given on website information for the payee names, I think that they were solely cryptocurrency related. However, buying cryptocurrency is a legitimate exercise and therefore I don't think that the act of buying cryptocurrency alone would mean that Santander should have been on alert.

Instead, I think that other factors will also play a part. However, based upon the size of the transactions, and the activity of Mr V's bank account that I've referred to above, I don't think it was unreasonable that Santander didn't intervene. I think that this would also apply to the two payments of £1,000 each sent on 20 February 2023 for the same reasons. I therefore don't think that in this case there were any other factors in play which would have meant that Santander ought to have considered the payments to be suspicious.

My conclusion is that I don't think that there was anything sufficiently unusual or suspicious in the payments that Mr V made to the scammer which should have prompted Santander to take more action than they did. I therefore don't think that Santander did anything wrong when Mr V instructed the payments to the scammer on his debit card. As I don't think that Santander did anything wrong then I don't think it would be fair or reasonable to ask Santander to either refund the money that Mr V has lost, or to pay him interest and compensation, as his representative has asked for.

I am therefore unable to uphold Mr V's complaint.

My final decision

My final decision is that I don't uphold Mr V's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 26 December 2024.

Ian Barton
Ombudsman