

The complaint

Mr and Mrs W complain that Santander UK Plc “Santander” didn’t do enough to protect them when they made two payments for a property investment opportunity, which they now consider was a scam.

What happened

Mr and Mrs W made two £20,000 payments online from their Santander account towards a property development investment with ‘H’, in May and June 2018. Mr and Mrs W now say the investment was a scam and Santander should’ve done more to protect them at the time they invested.

Santander didn’t uphold Mr and Mrs W’s complaint and said this was a civil dispute between them and H. They came to our service, but our investigator also didn’t uphold their complaint for the same reasons, saying there wasn’t evidence they had been scammed. Mr and Mrs W, via a representative, asked for 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.

This includes the recent documentation sent to us, after the investigator’s original assessment.

Firstly, I should highlight that all the payments were made prior to the introduction of the Contingent Reimbursement Model Code (CRM Code) – which came into effect on 28 May 2019. The CRM Code can’t be applied retrospectively, so it doesn’t apply to these transactions.

In broad terms, the starting position in law is that a business 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.

There are, however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn’t have taken their customer’s authorisation instruction at ‘face value’ – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Santander should have been on the look-out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things) though. And, in some circumstances, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

Having reviewed Mr and Mrs W's account activity in the months prior to the payments to H, they do make some other high value transactions. Such as three £15,000 payments in April 2018 and a £10,000 payment to an investment firm in January 2018. So the two £20,000 payments weren't entirely out of character for the account by the time they were made.

But, even if Santander had decided to intervene and speak to Mr and Mrs W, before they processed these payments, I'm not persuaded the kind of information I'd expect Santander to have shared/discussed with them in May and June 2018 would've prevented the payments from being made.

H was a legitimately registered company at the time Mr and Mrs W paid into it. We're aware that H provided promotional literature which had both persuasive and comprehensive information for investors - setting out how it operated, and the returns expected. So it seems highly unlikely that a conversation with Santander would've prevented Mr and Mrs W going ahead with the investment when they were aware of this kind of information. And there also wasn't anything obviously concerning about H available in the public domain at the time of the payment.

I haven't seen information that indicates Santander ought to have stopped the payments to H at the time Mr and Mrs W were making them. And even if I think that Santander should've intervened (although I don't actually think it needed to), given that Mr and Mrs W were quite sure it was a legitimate investment opportunity at the time, I doubt that any warning from Santander at the time would've put them off from making the payments. So I see no reason to uphold this complaint.

My final decision

For the reasons set out above, I don't uphold Mr and Mrs W's complaint.

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

Charlie Newton
Ombudsman