

The complaint

Mrs W has complained that Santander UK Plc (“Santander”) hasn’t refunded the money she lost as part of a scam.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mrs W has used a representative to refer her complaint to this service. For the purposes of my decision, I’ll refer directly to Mrs W, but I’d like to reassure Mrs W and her representative that I’ve considered everything they’ve both said.

Mrs W explains that she purchased gift cards and sent funds to her daughter, unbeknown to her that her daughter was the victim of a romance scam. Mrs W made a number of transactions totalling around £4,500 as bank transfers and debit card payments.

When Mrs W discovered that the payments were related to a scam she raised this with Santander, but Santander refused to reimburse Mrs W for what she’d lost.

The payments Mrs W says were part of this scam are as follows:

Date	Amount	Payment Type
27/09/2023	£1,500	Faster payment
26/10/2023	£200	Debit card (in person)
26/10/2023	£100	Debit card (in person)
26/10/2023	£100	Debit card (in person)
26/10/2023	£100	Debit card (in person)
26/10/2023	£100	Debit card (in person)
01/11/2023	£2,000	International payment
01/11/2023	£400	Faster payment
14/12/2023	£612.50	Debit card (in person)

Mrs W made a complaint to Santander. Santander didn’t refund Mrs W’s payments as it said she’d sent the funds to her daughter, who had then forwarded them on to a scammer, so that was the point at which they were lost. It also said it couldn’t raise chargebacks for the debit card transactions as Mrs W had purchased gift cards using her debit card, which she had received as expected, albeit before sending them on to her daughter as part of the scam. Mrs W remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn’t think the complaint should be upheld. He explained he thought Santander had acted fairly in the circumstances, and he said that what it done to intervene was proportionate to the risks presented by the payments. He also didn’t think Santander should’ve refunded the card payments Mrs W made, as she’d received the gift cards she purchased in those transactions.

As Mrs W didn't accept the investigator's opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Mrs W but having considered everything I'm afraid I'm not upholding her complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mrs W authorised these payments from leaving her account. It's accepted by all parties that Mrs W gave the instructions to Santander and Santander made the payments in line with those instructions, and in line with the terms and conditions of Mrs W's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

Santander says that when Mrs W made the payment of £1,500 to her daughter, it asked her for the purpose of the payment, and she responded that she was "paying family". It then asked Mrs W to answer some questions related to the authenticity of the payment, and showed her a warning related to the risks associated with paying family, and Mrs W acknowledged this warning and continued to make the payment.

Having considered this, I think this was a proportionate step for Santander to take for this payment. The payment wasn't particularly large, and as Mrs W was sending it to a family member, I wouldn't have expected Santander to consider it as particularly high-risk or suspicious. The warnings Santander showed were relevant to common scams in existence, and although I understand Mrs W didn't know the true reason she was sending the payment to her daughter, she answered the questions truthfully. So whilst I know it also wasn't Mrs W's fault that the payment ended up being sent to a scammer, I also can't hold Santander responsible for what it didn't know. For similar reasons, I also don't think it was wrong that Santander didn't intervene when Mrs W made a further payment of £400 to her daughter around a month later – especially as this payment was for a lower value, and was sent to a recipient that Mrs W had paid previously.

Turning to the card payments, Santander says that after Mrs W made the first three payments by debit card, it blocked her card and sent her a notification using its mobile app, requesting she confirm the transactions as genuine. Mrs W did this, and her card was unblocked and Mrs W was able to make two more purchases. Having considered this, I think this was a reasonable course of action for Santander to take. Mrs W uses her debit card regularly and the values of the transactions weren't unusual in comparison with her usual spending activity.

I've considered that it's somewhat unusual for Mrs W to make several transactions to the same retailer in quick succession, as happened in this case, but I note the transactions were made using chip and PIN in a supermarket. So bearing in mind the fact that Santander needs to balance its risk intervention with not unnecessarily inconveniencing its customers, I don't think Santander ought to have done more to be satisfied that the transactions weren't

high risk or fraudulent. And with all of this in mind I think Santander checking the legitimacy of the transactions after the third one was a proportionate way for it to ensure Mrs W wasn't at risk of financial harm.

I also don't consider Santander should've taken action before the debit card transaction for £612.50 was processed. I can see that Mrs W occasionally used her card for large purchases, of a similar size to this one, and this transaction was made in a shop where Mrs W had used her card many times before. So I'm satisfied Santander didn't have reason to consider the transaction as suspicious, nor prevent it from taking place.

Finally, I've considered the international payment Mrs W made for £2,000, which was made in one of Santander's branches. Santander hasn't provided evidence of the checks it did when this payment was made but it says it would've had an "advanced scam conversation" with Mrs W, and it wouldn't have processed the payment without doing so.

Santander has provided an example of the guidance its branch staff would've likely used when Mrs W made this payment and I'm satisfied that the questions Santander likely asked Mrs W wouldn't have given it cause for concern. Mrs W doesn't recall the conversation that took place but based on everything I've read and been told, it also doesn't appear Mrs W was concerned by what her daughter had asked her to do, so I can't expect that Santander should've uncovered the fact that the payment was linked to a scam either. I'm further persuaded by this especially as Mrs W wasn't directly being scammed, so without thoroughly interrogating her, I wouldn't have expected Santander to uncover the scam behind what Mrs W was doing.

Recovery of the funds

I've seen that Santander attempted to recover the funds that were sent as part of this scam. Unfortunately, as the payments for £1,500 and £400 were sent to Mrs W's daughter and then sent on to the scammer, they weren't able to be recovered. I've also seen that Santander attempted to recover the £2,000 Mrs W sent as an international payment, but it hasn't yet been able to recover those. As international payment recovery is often complex, and done on a best endeavors basis, I can't expect Santander to do any more.

Aside from the transfers, as Mrs W used her debit card as part of this scam, I've considered whether the chargeback process would be relevant here.

Whilst the chargeback process is a relevant consideration in this case, the scenarios in which a chargeback can be raised are limited, and they don't include scams. Based on everything I know about these transactions, Mrs W used her debit card to buy supermarket gift cards, and she received those gift cards and would've been able to use them if she wanted to. Whilst I understand they may have then been sent on to a scammer, I'm satisfied that the merchant provided the service that Mrs W expected, as the provision of the gift cards was completed.

I'd only expect Santander to raise a chargeback if it was likely to succeed in recovery of the funds using that route. But in this case, Mrs W received what she paid for using her debit card, so there wasn't a reasonable prospect of success, so I don't think it was unfair that Santander didn't pursue this route.

I'm very sorry that Mrs W and her daughter have fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't believe Mrs W has personally been scammed and I don't hold Santander responsible for what's happened.

My final decision

I don't uphold Mrs W's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 28 November 2024.

Sam Wade
Ombudsman