

The complaint

Miss R complains that Santander UK Plc has not refunded money that she lost to an investment scam.

What happened

Miss R was added to a chat group which appeared to be for people investing in cryptocurrency. Initially, Miss R was not interested, but some months later changes in her personal circumstances meant that earning additional money was a priority for her, so she had another look at the chat group.

Her understanding was that an employee of a well-known financial institution was in charge of the group, and was providing cryptocurrency trading tips to its members. Members of the group were sharing details of the profits they'd made, and Miss R reached out to some of these individuals to check that the investment opportunity (and their profit) was real. Satisfied that this was a good opportunity, Miss R made contact with the group's leader, and decided to invest. Unfortunately, and unknown to Miss R, none of the people she had contacted from the chat group appear to have been legitimate, she was dealing with scammers.

The first payment Miss R attempted to the scam was from her Santander account, and Miss R discussed the payment with Santander. At that time, she decided to cancel the payment and do some further investigation of the investment. But, believing that the opportunity was legitimate, she went on to make two payments to the scam from her account with Santander, for £2,000 each. One of these payments was also intercepted by Santander, and Miss R was asked some questions about what the payment was for, but ultimately it was allowed to debit her account. Miss R then went on to make further payments to the scam from two other banks, M and H, as the scammers put increasing pressure on her to invest.

When Miss R tried to withdraw her profits from the scheme, and was unable to, she made direct contact with the person she believed was behind the chat group. He told Miss R that someone had been impersonating him, he had no involvement with the group, it was a scam.

Miss R contacted Santander, M and H to explain what had happened. H refunded the payments Miss R had made from her account with them, but M and Santander declined to refund any of her loss. Santander says that the payments were to a cryptocurrency account in Miss R's name, so it should not be responsible for her loss, it also noted that it had discussed payments with Miss R on two occasions, and provided some information regarding scams, but she had chosen to still go ahead.

Miss R was unhappy with Santander's response, so she referred her complaint to our service. One of our Investigators looked into what had happened, and they felt that Santander could have done more to protect Miss R. Specifically, they said that while the initial conversation Miss R had with Santander was relatively good, Santander missed some red flags in what Miss R was telling it that should have meant it identified any later payments to cryptocurrency could bear a significant scam risk. So, the Investigator considered that

Santander could have prevented Miss R's loss. They also did not consider that Miss R should share any responsibility for that loss given what she knew about the scam and her personal circumstances at the time.

Santander disagreed, it maintains that Miss R could have done more to protect herself, and says that as the loss was not from Miss R's Santander account but from her cryptocurrency account it should not be held liable for that loss.

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 satisfied Miss R authorised the payments that are in dispute, so as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Miss R is responsible for them. That remains the case even though Miss R was the unfortunate victim of a scam.

Because of this, Miss R is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Santander acted fairly and reasonably in its dealings with Miss R, or whether it should have done more than it did.

The payments Miss R made from her account were generally for fairly low amounts, rarely more than £1,000. So, I'm satisfied that the first payment she attempted, and the following successful payments she made to the scam, were unusual enough to have required some intervention from Santander. Not only were they much larger than the payments Miss R usually made, they were also to new payees associated with cryptocurrency. And by the time of these payments – December 2023 – Santander would have been well aware of the potential risk such payments could present.

And Santander did identify the first payment that Miss R attempted to make as potentially suspicious. This was an attempted payment for £4,000 on 13 December 2023, and Santander spoke with Miss R in detail about this payment. This was a long phone call, and there were elements of this call that were good, the call handler at Santander asked various questions about what Miss R was doing and how she had found this investment opportunity, Santander also provided Miss R with some warnings about cryptocurrency scams. However, while these warnings did include some of the hallmarks of common crypto scams, many of the warnings given do appear to have focussed on the risk of a third-party having access to Miss R's cryptocurrency wallet, which was not the case here. And the call handler does not appear to have picked up on some of the concerning things Miss R was saying about what she was doing. Specifically, the involvement of a third party who was providing her with 'tips' and someone guiding her through what to do.

While the call handler does tell Miss R to be wary of 'too good to be true' returns, and of unregulated investments, and walks her through how to check up on the cryptocurrency wallet provider on the FCA's website, they do not explain the real significance of any of this. They also don't, for example, ask any questions about where the money is going after it is converted to cryptocurrency (for example, to an individual or to a trading platform) or tell her

to also carry out checks on the trader who is helping her, or for any trading platform she's using.

Ultimately, Miss R decided not to go ahead with this payment, as she wanted to do some more checks. But Santander still marked this payment as genuine with 'no fraud concerns' and the call handler suggested that, once she'd done some more research and talked to friends or family, Miss R start by making a smaller payment to the investment, despite the various red flags that should have indicated to Santander this was likely not a legitimate investment at all.

With all this in mind, I agree with our investigator that following this call Santander should have been on notice that Miss R was at an increased risk of falling victim to a cryptocurrency investment scam. So, when Miss R then made a successful payment to a different cryptocurrency provider a couple of weeks later, I think that Santander should have stepped in and questioned her in more detail about what she was doing. I can see that, for this successful payment, Santander did require Miss R to go through some automated questions before allowing the payment to be made, but I don't agree that level of intervention was appropriate given the risk this payment presented in light of Miss R's previous conversation with Santander. In my view, it would have been reasonable for Santander to have another conversation with Miss R at this stage and, had it asked appropriate questions about who was 'guiding' her, how she was in contact with this person, and where exactly she was sending her funds after converting them to cryptocurrency, then I think it is very likely that the scam would have come to light given how familiar Santander should have been with cryptocurrency scams by this stage.

I appreciate that Santander did speak with Miss R about a later payment she attempted, and that she then went on to pay further funds to the scam via other banks. But that second intervention call was fairly limited in scope, Miss R appears to have been asked a series of closed questions, many of which related to safe account scams rather than the type of scam she was a victim of, and was warned to be wary of anyone having access to her crypto account which, as noted above, does not appear to have been the case here. So, I don't think her reaction to this intervention is any indication of what she would have done had Santander intervened appropriately at the time of the first successful payment.

With everything I've seen I'm satisfied that Miss R would have been open and honest with Santander, and that appropriate questioning would have teased out features of what she was doing that would have been a clear indication to Santander that she was being scammed. If it had then clearly told her that this was very likely a scam – rather than the much vaguer warnings that it gave when she first spoke with it – then I'm satisfied Miss R would have stopped what she was doing, and made no further payments to the scam.

Santander has argued that Miss R's money wasn't lost as a result of it leaving the current account. Instead, it says the money was lost only when moved on from the cryptocurrency wallet. Whilst that might be the case, the loss was still reasonably foreseeable to the bank. Santander ought to be aware of multi-stage fraud, including where cryptocurrency wallets are used. And the link of causation is still present, meaning the use of the cryptocurrency wallet doesn't lead to Santander bearing no responsibility. As the loss should have been prevented, it's fair and reasonable Santander compensate Miss R for it.

I've gone on to consider whether Miss R should reasonably bear some responsibility for the losses as a result of any contributory negligence in her actions and if it is therefore reasonable for me to make a reduction in the award based on this. In doing so, I've considered whether Miss R has acted as a reasonable person would to protect herself against the loss she suffered. The test is objective but needs to take account of the relevant

circumstances. In doing so, I've taken on board Miss R's personal circumstances at the time the scam took place.

Shortly before deciding to invest in this scheme, Miss R's mother had been diagnosed with a potentially life limiting illness. In addition, Miss R was relatively young at the time of the scam, she was also studying and working while trying to support her mother. So, overall, her ability to make a fully rational assessment of the legitimacy of this investment was diminished at the time of the scam. Miss R has told us that she nonetheless did take steps to check that what she was doing was safe. She reached out to others who she thought were investing in the same scheme, looked up information about the trader she thought was providing the tips (who appeared to work for a legitimate financial institution) and did speak with a friend about what she was doing after Santander suggested she do so. She also appears to have been able to see her investment on what looked – to her at least – like a professional trading platform. On balance, considering Miss R's age, situation at the time and the research she nonetheless carried out, I don't think she can be considered negligent in this particular case, so I don't recommend a reduction in the redress.

In summary, I consider that Santander did miss a chance to protect Miss R from this scam, and that Miss R should not also share responsibility for that loss. It follows that Santander should therefore reimburse her for her loss in full.

Putting things right

To resolve this complaint Santander should:

- Pay Miss R £4,000, representing her loss from the two payments she made to the scam from her Santander account.
- Pay 8% simple interest per annum on that amount, from the date of each payment to the date of settlement.

My final decision

I uphold this complaint. Santander UK Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 7 November 2024.

Sophie Mitchell
Ombudsman