

## The complaint

Mrs H complains Santander UK Plc won't refund the money she lost to a scam.

## What happened

Around April 2023, Mrs H came across an advert featuring a media personality promoting an investment opportunity. She responded and was contacted by someone claiming to represent an investment company – "M". Unfortunately, this was actually a scam.

Mrs H initially invested a small amount (paid from another account). She then enquired about closing the trading account between April and May 2023, but says she was instead pressured to invest more – with M showing her how much profit she had allegedly made.

M told Mrs H to set up a new account with another firm, "R". She sent funds from Santander, to R, then to cryptocurrency exchanges – to buy cryptocurrency to send on to the scam. Mrs H says remote access was used by the scammers to complete and/or guide her through the payment steps, but accepts she authorised the payments from Santander.

I've set out a table of all the payments Mrs H sent from Santander to R in connection with the scam. She also sent two small payments (totalling £15) to R in April 2023, but those payments weren't sent on to the scam. Most payments from June 2023 onwards were for alleged fees and taxes (etc) to withdraw from M's platform.

Date	Amount
19/05/2023	£2,500
23/05/2023	£2,500
05/06/2023	£5,000
07/06/2023	£5,000
08/06/2023	£5,000
19/06/2023	£5,000
23/06/2023	£7,500
24/06/2023	£7,500
26/06/2023	£5,000
26/06/2023	£5,000
26/06/2023	£5,000
30/06/2023	£3,000

M also told Mrs H to take out credit to fund further payments. She made three loan applications – including one with Santander – but was declined. Mrs H spoke to a family member about what was happening. It was then that she realised she had been scammed.

Mrs H complained to Santander. She said the payments were very unusual, so it should have done more to protect her from the scam. Santander didn't agree to refund Mrs H, so she referred the matter to our service.

Our investigator didn't uphold the complaint. He found Mrs H had made other large payments, affecting how (un)characteristic the scam payments looked. And Santander had spoken to Mrs H directly about the £7,500 payment she made on 23 June 2023 – which it had initially declined. Under questioning, she said she was moving over savings due to getting a better rate with R. Overall, the investigator wasn't persuaded Santander was at fault for not uncovering the scam.

Mrs H has appealed the investigator's outcome. In summary, she says:

- Santander should have questioned her earlier given the level of the payments and the credits she received from her husband's account;
- Santander should have realised, and warned her, there was a high risk of cryptocurrency fraud due to her sending funds to an 'unregulated bank';
- By 23 June 2023, she was desperate to get her money back so followed M's instructions on what to say – but would have behaved differently earlier on.

### **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, I've decided not to uphold it. I appreciate this will be disappointing for Mrs H. I've set out below why I have reached this outcome.

While I've taken on board what Mrs H has explained about M's involvement in making the payments, I'm satisfied they were authorised by her. It seems clear she was aware of the payments and agreed to move the funds – for the purpose of funding the investment, and then to pay the sums M told her were necessary to withdraw from her trading platform. Mrs H also confirmed making the payments herself when initially reporting the scam to Santander. As that was only shortly after her last scam payment, I consider that likely to be an accurate recollection.

In broad terms, the starting position in law is that Santander is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

However, as Santander will be aware, it should also be on the look-out for the possibility of fraud – and as such there will be some circumstances in which it would be appropriate to make additional checks before processing payments. This is in line with longstanding regulatory expectations and requirements, and what I consider to be good industry practice at the time of these payments.

I'm aware Santander did take further steps when Mrs H sent £7,500 to R on 23 June 2023. Having listened to this call, I agree with the investigator that Santander didn't have cause to suspect she was falling victim to a scam at this point, based on how she responded to its questioning.

When asked about why she was making the payment, Mrs H told Santander she was sending money to her personal account with R as it was offering a good interest rate. When asked about the rate, she was able to provide details about this. Santander couldn't see that the funds were actually being used to buy cryptocurrency. In those circumstances, I don't think it had cause to doubt Mrs H's responses. I don't think she sounded uncertain or evasive, such that it ought to have probed her further.

So, while Santander didn't issue a warning about the type of scam Mrs H was falling victim to (a cryptocurrency/investment scam), I don't think it had cause to do so. I'm also conscious that the warnings it did issue contained some information relevant to what happened to her. For example – Santander warned her that if she had been asked to lie or mislead the bank about the payment, that would be a scam. In response, Mrs H confirmed she hadn't been asked to do this. However, she has explained to us that she was coached by the scammer into giving a cover story.

Santander also warned Mrs H it was important she responded honestly, in order to help it protect her – and that this could impact whether it would reimburse her if the payment turned out to be a scam. And it warned her about not allowing remote access while setting up an account, and about not sharing "One Time Passcodes" (OTPs) with anyone. These are both things which Mrs H told us she did during the course of the scam.

In the circumstances, I'm persuaded it was reasonable for Santander to process the payment following its checks. I don't think it had cause to suspect the payments were at risk of being lost to a scam. I also think that, although it wasn't aware of the true nature of the scam, it still covered some warnings relevant to Mrs H's situation. As she proceeded following those warnings, I don't think Santander is at fault for not uncovering the scam at this point.

I've considered Mrs H's argument for why she thinks Santander should have intervened earlier - given the level of the payments; the destination; and the overall account activity (including the funds coming into her account, as well as the funds she was sending). But I'm not persuaded it had cause for concern from the outset.

These payments were going to Mrs H's own account with a firm who are/were regulated by the Financial Conduct Authority (as Santander is). While I appreciate the payments were for fairly high amounts, there were other instances of Mrs H making large payments prior – which would have contributed to what level of activity Santander expected to see on the account. I also note the credits Mrs H has mentioned were from an established payee – and most were received around, or after, the time of Santander's intervention. Mrs H's account also remained in credit throughout.

In the circumstances, I think Santander's intervention point seems reasonable. I also agree with the investigator that, even if I were to conclude Santander ought to have intervened a little sooner (and I don't think it would be reasonable to conclude it should have intervened much earlier on), it's unclear whether this would have succeeded. That's because, by this point in the scam, Mrs H was being put under pressure to try to get her money back. I therefore think it's likely she would have been similarly coached by M on what to say.

I also think it's likely that any further interventions from 23 June 2023 onwards were unlikely to have succeeded – given the level of coaching occurring by that point. So even if Santander had intervened again, such as in relation to the loan application it received, I'm not persuaded this would have uncovered that Mrs H was falling victim to a scam. Santander didn't have the full picture to see that the way the payments to R were being used didn't match what it had been told.

I've considered if there is any other reason why Santander ought to refund Mrs H. As the funds were sent on to her own account, the payments don't fall under the scope of the Contingent Reimbursement Model (CRM) code. Nor could Santander have recalled the funds; the nature of the scam meant they were sent on from the account Mrs H paid.

It's clear Mrs H fell victim to a cruel and sophisticated scam. I also understand how the tactics of the scammer helped persuade her not to tell Santander how she intended to use the funds. But looking at Santander's role in what happened, I'm not persuaded it made any failings which caused her to lose out. I therefore don't consider it fair to direct Santander to refund the money she lost to the scam.

### **My final decision**

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 25 February 2025.

Rachel Loughlin  
**Ombudsman**