

The complaint

Miss Z complains that Santander UK Plc ('Santander') won't refund her after she fell victim to a scam.

What happened

In May 2019, Miss Z says she was introduced to a person who I'll refer to as M. M offered Miss Z an investment opportunity. Miss Z says this was through a company, who I'll refer to as F.

Miss Z has limited information available about what M told her about returns, although she has a handwritten note which refers to a particular cryptocurrency (which I'll refer to as D) and monthly returns.

Miss Z made the following payments from her Santander account.

Date	Details of transaction	Amount
3.5.2019	Payment to M	£23,074.40
14.5.2019	Payment to M	£1,036.00
18.5.2019	Payment to M	£30.00
20.5.2019	Payment to M	£1,000.00

Miss Z says she hasn't received any of her money back from M or F, and that F was ultimately closed down for running a pyramid scheme.

Miss Z reported her fraud claim to Santander in 2022. Miss Z says she was too embarrassed to raise it any earlier, but after falling victim to another scam (not part of this complaint), Miss Z raised both with Santander.

Santander declined Miss Z's fraud claim, saying she had a civil dispute with M. Santander referred to a call recording with Miss Z, where she told them that she had met M in person and gone to the USA with M and his wife and attended a cryptocurrency conference. Santander say Miss Z knew M and the receiving bank found no evidence of fraud.

Miss Z wasn't happy with Santander's response, so she brought a complaint to our service.

An investigator looked into Miss Z's complaint and didn't uphold it. The investigator wasn't satisfied that there was enough evidence that Miss Z made the payments as part of a scam. Miss Z responded providing new evidence. But, as the evidence supplied didn't link M to F, or suggest that M had invested Miss Z's money in F - the investigator didn't change their opinion.

Miss Z didn't agree with the investigator's opinion and asked for an ombudsman to review her case. She provided additional new evidence, including:

- Screen shots of emails sent to her email address from F.

- A video of a person talking about a particular cryptocurrency (D) and a special bonus whereby any investment would be doubled. Miss Z says that it's M in the video.
- Miss Z was confused when she called Santander to report the fraud and had incorrectly told them she went to the US with M. Miss Z went to the US to visit family and attended a virtual conference in relation to the investment. She didn't travel to the US with M.
- Santander should've intervened when she made her payment, and if they had, her loss would've been prevented.
- Miss Z was particularly vulnerable at the time she made the payments. She had suffered a family bereavement and a close family member getting a cancer diagnosis.

As the case couldn't be resolved informally, it has been passed to me to review.

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 really sorry to hear about the very difficult circumstances that Miss Z has faced recently and at the time she made the payments.

But, having carefully considered all the evidence, I've reached the same answer as the investigator. I'll explain why.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened considering the available evidence.

In broad terms, the starting position at law is that Santander are expected to process payments and withdrawals that 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.

Did Miss Z make the payments as the result of a scam?

Miss Z has provided a number of screen shots of emails sent to her by F which refer to an account with them. Miss Z has also sent evidence that suggests F has been investigated and closed down due to running a pyramid or Ponzi scheme.

But, Miss Z made her payments to M, not to F, and Miss Z hasn't provided any evidence that proves a link between M and F, or that M made payments to F.

In the video Miss F has provided, the person never refers to F, they only refer to D – which is a genuine cryptocurrency. Also, a handwritten note which Miss Z says relates to the payments, refers to D not to F. So, I'm not satisfied that Miss Z has satisfactorily shown a link between M and F, or the payments she made and F.

I accept that Miss Z made sizable payments to M, but we don't have any of the communication between M and Miss Z to say what they discussed, what the payments were made for, or what Miss Z was promised in return for the payments. Miss Z says most of this contact was via a messaging app, but she is unable to provide a copy of that chat.

I'm aware there have been some discrepancies between what Miss Z told Santander when she reported the fraud, and what she told our service. But I appreciate that this may have been due to the extreme stress she was under when she reported the fraud.

Based on the evidence that Miss Z has provided, I'm not satisfied that she has evidenced that she made the payments to M as the result of a scam or that she suffered a loss as the result of a scam. That isn't to say that Miss Z hasn't suffered a financial loss, just that I haven't seen evidence that says that loss was as the result of a scam. Without this evidence, I can't fairly hold Santander liable for any loss Miss Z has suffered or ask them to refund her.

Should Santander have intervened when Miss Z made the payments?

Even if I'm satisfied that Santander should've intervened when Miss Z made the payments, it wouldn't change the outcome in this case. I say this because I don't know what Miss Z would've told Santander had they asked her about the payments.

She chose the payment purpose as "paying for building work" and it's possible that she would've provided satisfactory answers that suggested she was having building work done by M. So, I can't fairly say that it's more likely than not Santander would've had any concerns or identified that Miss Z was potentially the victim of a financial crime if they intervened when she made the payments.

Miss Z has explained about her vulnerability at the time she made the payments and I'm really sorry to hear about the loss she has experienced, and the ill health that has affected her and her family. I accept that this would've made Miss Z more vulnerable to financial harm, but that doesn't necessarily mean I can ask Santander to refund her. I first have to be satisfied that Miss Z has suffered a loss as a result of a scam, in order to consider how vulnerability impacts any refund she may be entitled to.

I'm really sorry to disappoint Miss Z, but for the reasons given above, I'm not satisfied that Miss Z has evidenced that she experienced a financial loss as the result of a scam. On that basis, I can't fairly ask Santander to refund her.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Z to accept or reject my decision before 3 February 2025.

Lisa Lowe

Ombudsman