

The complaint

Mr M complains that Santander UK Plc (Santander) is refusing to refund him the amount he lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr M was actively looking for work when he was contacted by an individual that I will call X, who offered Mr M training and a job working for an international app promotion company.

X explained the role which included completing allocated tasks that would be assigned to Mr M. Mr M would be paid by both a salary and commission. Mr M agreed to the role and started work.

Having completed some tasks Mr M came across "combination tasks" that offered a better return, but in the first instance they put Mr M's account into a negative balance that he was required to clear by making payments via cryptocurrency.

Mr M made the following payments from his Santander account before he ran out of funds and stopped making payments:

Payment	Date	Payee	Payment Method	Amount
1	8 October 2023	BitGet	Debit Card	£12.00
2	9 October 2023	BitGet	Debit Card	£50.00
3	9 October 2023	BitGet	Debit Card	£450.00
4	9 October 2023	BitGet	Debit Card	£1,200.00
5	9 October 2023	BitGet	Debit Card	£500.00
6	10 October 2023	BitGet	Debit Card	£20.00
7	10 October 2023	BitGet	Debit Card	£500.00
8	10 October 2023	KuCoin	Debit Card	£1,400.00
9	11 October 2023	Coinbase	Debit Card	£500.00
10	11 October 2023	BitGet	Debit Card	£1,200.00

Our Investigator considered Mr M's complaint and didn't think it should be upheld. Mr M disagreed, so this complaint has been passed to me to decide.

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.

It has not been disputed that Mr M has fallen victim to a cruel scam. The evidence provided by both Mr M and Santander sets out what happened. What is in dispute is whether Santander should refund the money Mr M lost due to the scam.

Recovering the payments Mr M made

Mr M made payments into the scam via his debit card. When payments are made by card the only recovery option Santander has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr M was dealing with X and the business that instigated the scam. But Mr M didn't make the debit card payments to X directly, he paid separate cryptocurrency exchanges. This is important because Santander would only have been able to process chargeback claims against the merchants he paid, not another party (such as X or the scam business).

The service provided by the cryptocurrency exchanges would have been to convert or facilitate conversion of Mr M's payments into cryptocurrency. Therefore, they provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchants Mr M paid.

Should Santander have reasonably prevented the payments Mr M made?

It has been accepted that Mr M authorised the payments that were made from his account with Santander, albeit on X's instruction. So, the starting point here is that Mr M is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Santander should have been aware of the scam and intervened when Mr M made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The payments Mr M made from his account were for relatively low values. Even though the payments were being made to cryptocurrency exchanges the exchanges were legitimate businesses and it wouldn't be reasonable for me to suggest Santander should step in every time one of its customers makes relatively low value payments to a legitimate business.

With the above in mind, I don't think it was unreasonable that the payments Mr M made in relation to the scam didn't prompt Santander to question Mr M in depth about them. A phone call did take place when Mr M was struggling to process a payment and he confirmed it was him making the payments.

As I don't think it was unreasonable that Santander didn't intervene further it, it is not responsible for Mr M's loss and does not need to refund the payments he made.

Even if Santander was to have intervened and questioned Mr M about the payments he was making (which I don't think it needed to) I think it's unlikely the scam would have been uncovered.

I say this because Mr M was making payments into the scam from an account he held elsewhere before he started making payments from his Santander account. Mr M appears to have realised he was falling victim to a scam before any payments were made from his Santander account and he reported these payments to his other bank.

Even though Mr M felt at the time he was falling victim to a scam he was not honest with his other bank. He said he did not recognise the payments that had been made and did not have a relationship with the business the payments were made to.

It is also clear that Mr M found X to be very convincing, as after he reported the scam, he continued to make payments from his Santander account. It's clear that Mr M was guided by X on how to make the payments and where to make them from.

So, even though I don't think Santander was required to provide a detailed intervention I'm not persuaded that an intervention would have resulted in the scam being uncovered and prevented Mr M's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 December 2024.

Terry Woodham
Ombudsman