

## The complaint

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

Mr K is being represented by a third party. To keep things simple, I will refer to Mr K throughout my decision.

## 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 K tells us he had been interested in investing in cryptocurrency having seen its popularity increase, and he had previously made investments. But Mr K didn't think he had the knowledge and experience himself so started researching investment companies online.

While searching online Mr K found a pop-up advertisement for a company I will call X. Mr K clicked on the link and accessed what appeared to be a professional looking and legitimate website. Mr K left his information to register his interest.

Mr K then received a call from X and the process of investing was explained. Mr K and X stayed in regular contact over the days that followed building trust.

Mr K was then directed by X to open an account on its website where Mr K was required to provide various identification documents. When the account was opened Mr K was able to login and could see what appeared to be a professional platform.

Mr K started to make payments in relation to what he thought was a genuine investment and was also able to make a withdrawal.

Having made several payments X advised Mr K that there had been a change in the market and that he would need to make further payments to protect his funds. Mr K says he trusted X so made the payments as requested.

Having made the payments Mr K decided to make a withdrawal from the investment but was told by X that he would have to make a further payment in relation to tax first. Mr K made the payment as requested but a withdrawal was not processed. Mr K contacted X several times but didn't receive a response. At this time Mr K realised he had fallen victim to a scam.

Mr K made the following payments in relation to the scam:

<u>Payment</u>	<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	9 March 2021	Binance	Transfer	£5,000.00
	15 March 2021	Binance	Credit	£542.29cr
2	22 March 2021	Binance	Transfer	£5,290.00
3	8 April 2021	Binance	Transfer	£7,000.00
4	30 April 2021	Binance	Transfer	£5,000.00

5	12 May 2021	Binance	Transfer	£6,060.00
6	24 May 2021	Binance	Transfer	£5,500.00

Our Investigator considered Mr K's complaint and didn't think it should be upheld. Mr K 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 K has fallen victim to a cruel scam. The evidence provided by both Mr K and Santander sets out what happened. What is in dispute is whether Santander should refund the money Mr K lost due to the scam.

#### *Recovering the payments Mr K made*

Mr K made payments in relation to the scam via transfer, but he didn't make the payments directly to X, instead he made payments to a genuine cryptocurrency exchange and from there the funds were transferred to X.

As there is no dispute that Mr K received cryptocurrency in exchange of the payments he made, and it took further steps for the funds to be sent to the scammer any attempt to recover the funds would have been unsuccessful.

#### *Should Santander have reasonably prevented the payments Mr K made?*

It has been accepted that Mr K authorised the payments that were made from his account with Santander, albeit on X's instruction. So, the starting point here is that Mr K 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 the payments were made. And if it had intervened, would it have been able to prevent the scam taking place.

When Mr K made the disputed payments cryptocurrency investment scams were not as common as they are today so I wouldn't have expected Santander to have been as aware of the risk associated with cryptocurrency related payments. However, I think it could be argued that Santander should have intervened when Mr K made payment 2 given its significant value of £5,000.

The payments in dispute took place a long time ago but the notes from Santander's system show that a call took place on 9 March 2021 when payment 1 was being made. The notes show that Mr K confirmed he had checked that X was registered on the FCA database. Although a recording of this call is no longer available, I think it's most likely that the notes made at the time were accurate.

On 3 June 2021 Mr K spoke to Santander again when the scam had been identified by Mr K, I have listened to a recording of this call. During this call Mr K confirmed that he did say in the call on 9 March 2021 that he had checked the FCA website, and he was happy.

Although at the time of the call on 9 March 2021 there was nothing recorded about X on the FCA website.

I'm not sure why Mr K told Santander that he had checked the FCA website but I don't think it was unreasonable that Santander allowed the payment to be processed following this. It would have appeared at the time that Mr K had carried out research about X and was happy to proceed with the payment.

I don't have enough to say that had Santander intervened again when any of the other payments were made, Mr K would have provided any different information.

Even if Mr K had explained the circumstances behind the payments, I don't think Santander would have had concerns. I think at most Mr K would have said that he had already opened a cryptocurrency account and was looking to invest, so he searched X himself online, and had been advised by a friend that X was safe to deal with. Mr K had also opened an account himself and was able to make a withdrawal. These were not common attributes of known scams at the time.

From the available information it is also clear that Mr K was provided with scam education just a few months before starting to make the disputed payments, having fallen victim to a different scam. I think this is relevant as the information included the importance of carrying out due diligence, and to check regulated products.

Even though Mr K had only recently fallen victim to another scam and was given this advice it doesn't appear that he took due care before making the disputed payments. I appreciate Mr K thinks Santander should have intervened further given he had fallen for a separate scam, but for the reasons I've explained above I don't think further interventions would have been successful.

With the above in mind, I don't think Santander missed an opportunity to prevent the scam and it is not responsible for Mr K'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 K to accept or reject my decision before 2 July 2025.

Terry Woodham  
**Ombudsman**