

The complaint

Mr R complains that Santander UK Plc (Santander) won't reimburse him for payments he made to a scam.

Mr R's complaint is brought by a professional representative but for ease I will refer only to Mr R in this decision.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In August 2023 Mr R received a WhatsApp message from a scammer who built a rapport with him and convinced him to invest in an online trading account. Mr R was provided with a cryptocurrency wallet ID and asked to make payments to that from which the scammer would make the investments. Mr R was encouraged by the returns he appeared to be making so he made further investments. The payments he made are summarised in this chart where 'U' and 'B' are cryptocurrency payment processors and 'K' is a cryptocurrency exchange.

Payment No.	Date	Payee	Amount
1	7 October 2023	U	£100
2	19 October 2023	K	£1,300
3	7 November 2023	K	£2,500
4	9 November 2023	B	£2,201
5	30 November 2023	B	£900
6	5 December 2023	B	£900
7	18 January 2024	K	£2,000
8	19 January 2024	K	£1,200
9	31 January 2024	K	£800
10	31 January 2024	K	£20
11	31 January 2024	K	£2,000
Total			£13,921

When Mr R was unable to withdraw his money, he realised he'd been scammed. He complained to Santander. He said they should have known about the scam and should have warned him. Santander didn't uphold Mr R's complaint.

Mr R, therefore, referred his complaint to the Financial Ombudsman and our investigator provided their opinion. They thought that when Mr R started making large payments to cryptocurrency platforms, Santander should have intervened as the payments were unusual. They noted that Santander had discussed matters with Mr R on 8 November 2023, but they weren't persuaded that they did enough on this call to investigate the investment and they thought they had, therefore, missed an opportunity to uncover the scam. They suggested that Santander should refund half of the payments made from, and including, payment four

(above) and that they should add 8% interest to that refund.

Mr R accepted that proposal, but Santander didn't. They said that they had a duty to execute the payments Mr R had requested them to make and that their questions would have simply revealed that Mr R had made the payments himself and that he'd received some returns. They said they had no connection with the actual loss as that was incurred when payments left K and B. They asked for a decision by an ombudsman.

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 was very sorry to hear that Mr R had lost money in the way that he did. I appreciate how distressing and frustrating it must have been for him. I think Santander should have identified this scam and that they should refund half of the money Mr R lost from the point of the fourth payment onwards. I'll explain why.

The Financial Ombudsman is designed to be a quick and informal alternative to the courts. Given that, my role as an ombudsman is not to address every single point that has been made. Instead, it is to decide what is fair and reasonable given the circumstances of this complaint. And for that reason, I am only going to refer to what I think are the most salient points. But I have read all of the submissions from both sides in full and I keep in mind all of the points that have been made when I set out my decision.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I'm required to take into account the relevant, laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time.

Broadly speaking, Mr R is responsible for any payments made from his account which are properly authorised, as they were here. And Santander has a duty to process valid payment instructions quickly and with minimal friction. These positions are set out in the Payment Service Regulations (2017).

However, taking into account the relevant law, regulations, industry guidance, and best practice, firms like Santander ought fairly and reasonably to have systems in place to monitor transactions and accounts for signs that its customer might be at risk of financial harm through fraud. Where such risks are detected, there ought to be action from the bank to intervene through the giving of warnings and scam education. Any intervention should be proportionate to the risk presented by the circumstances of the payment. Mr R made these payments after the inception of the FCA's Consumer Duty, which puts an obligation on firms to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams.

Santander should also have been aware of the increase in multi-stage fraud (including those involving cryptocurrency) when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer's control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years and it's a trend Santander ought fairly and reasonably to have been aware of at the time of the scam.

Scams involving cryptocurrency have also increased over time. The FCA and Action Fraud published warnings about cryptocurrency scams in mid-2018 and figures published by the latter show that losses suffered to cryptocurrency scams have continued to increase since. They reached record levels in 2022.

I think Santander would have been aware at the time all of these payments were made that fraudsters use genuine firms offering cryptocurrency as a way of defrauding customers and that these scams often involve money passing through more than one account. So, Santander should have been alert to whether these payments were part of a wider scam. The fact that the money used to fund the scam wasn't lost at the point it was transferred to Mr R's own account does not alter the fact that I think Santander can fairly be held responsible for Mr R's loss in such circumstances.

Where there is a failure by a firm to properly intervene and protect a customer, it might then be fair and reasonable to say that the firm becomes responsible for the customer's loss. And so, in Mr R's case, it's for me to determine if Santander made an error(s) over the course of the scam and, if so, whether it's fair and reasonable for it to be held responsible for Mr R's losses as a result.

Santander had a conversation with Mr R on 8 November 2023 as they'd blocked the payment that was eventually made on 9 November 2023. I think that was the appropriate time for them to have intervened. By this point Mr R had already paid £3,900 into what I think, for the reasons I've already given, should have been considered high risk cryptocurrency related platforms. There had been almost three weeks between the second and third payments, so I don't think a pattern had, as yet, emerged and, as such, I think the appropriate time for Santander to intervene was when the fourth payment was made. These were unusually high payments given the others made on the account and the payments were escalating in frequency. I think Santander failed to ask the right questions during that call and, therefore, failed to identify that a scam was taking place.

I'd have expected the call handler to have asked open, probing and proportionate questions, and to react to the information provided by Mr R and anything unusual in his answers. I've listened to the call, and I don't think the call handler did any of that. Mr R was asked if anyone had access to his online wallet and if he'd been asked to set up an online account, but the questions were rushed and mumbled, and the call handler didn't probe the responses given or react to the information provided. Mr R was also asked if the investment had high rewards, but the call handler didn't stop to consider Mr R's response or to probe further. I think some of the questions the call handler asked were leading questions. For instance, the call handler said *"It's a necessary payment? Yeh?"* and *"it's a reasonable investment; it's not something with like high rewards"*. I don't think the questioning was reasonable or sufficient and I don't think there was enough information that the bank ought to have released the payment. They couldn't reasonably have been satisfied, on the information provided, that Mr R wasn't being scammed.

Had Santander asked open, probing and proportionate questions I think it's likely the scam would have been exposed. I say that because I think Santander would have been able to identify the key features of such a scam when they asked those questions. They'd have been likely to ascertain that Mr R was in contact with the scammer, and to have identified

that payments were being moved on to the scammers account. And I think they'd have been likely to have been told about the unrealistic returns the investment platform was showing and they would have been able to alert Mr R to how others had fallen victim to similar scams, and how they worked. I think Mr R would have been open and honest about the circumstances of this payment had Santander asked. He hasn't told us that he'd been coached in how to mislead Santander had they intervened with questions about the circumstances of the payment and when he transferred funds he selected 'transfer to an investment' so I don't think he'd be likely to tell Santander otherwise.

Overall, I think Santander can, therefore, fairly be held responsible for the losses Mr R incurred from, and including, payment four and until the scam was uncovered after payment eleven.

I've thought about whether it is fair for Mr R to share responsibility for that loss, and I think it is. While I have every sympathy with him, I do think some of his actions contributed to the loss he experienced. I accept that he wasn't a sophisticated investor, but I think there were signs that this arrangement was a scam, and I don't think a reasonable person would have acted in the way he did. In particular, I don't think a reasonable person would have engaged in an investment opportunity with a stranger without more extensive investigation into that opportunity. There was no contract or terms exchanged for what was a considerable investment for Mr R given he has explained he lost his life savings to it, and research I've completed shows there were negative reviews online at the time that would've been enough to make a reasonable person doubt this was a legitimate investment opportunity. So, I can't say Mr R acted reasonably here.

Overall, I think it would be fair for both parties to share the loss evenly. Santander will need to add 8% interest to their share of the refund as Mr R has been deprived of the money.

I've thought about whether Santander acted reasonably when it was made aware of the scam. They haven't explained whether they tried to recover any funds, but it's not disputed that the funds were sent to a wallet and electronic payment platforms in Mr R's name before being forwarded to the scammers. So, Santander wouldn't have been able to recover any of his funds and I don't think it treated him unreasonably for that reason here.

Chargeback – Mr R used his debit card for the majority of the payments here. But because he was able to purchase crypto with the exchanges he sent the money to he received the service he paid for. As a result, there wasn't a reasonable prospect of a chargeback being successful here. So, Santander didn't treat him unfairly by not raising a chargeback here.

My final decision

For the reasons I've given above, I uphold this complaint in part and tell Santander UK Plc to:

- Refund 50% of disputed payments number four to eleven (above) to Mr R.
- Apply 8% simple interest from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 15 July 2025.

Phillip McMahon
Ombudsman