

The complaint

Mr A complains that Santander UK Plc did not refund the £9,900 he says he lost to a scam.

What happened

In his submission to our service, Mr A said he had been looking to invest his savings over the last few months and found a company which he researched thoroughly. He said he spoke with them over the phone, and felt confident they were genuine, so he transferred £9,900 to an account in the name of an individual who worked for the company on 28 January 2023. However, soon after sending the payment, the company disappeared. Mr A raised a scam claim with Santander, but they responded on 24 February 2023 and said they had reviewed their decision to offer him a basic account and were withdrawing their services immediately. And they did not agree to reimburse him with the lost funds.

Mr A referred the complaint to our service and our investigator looked into it. They felt that Mr A's testimony to our service did not match with what he told Santander. During a phone call with Santander where he raised the scam claim Mr A said he had seen adverts for the investment company online and he was contacted by two individuals who he'll call 'J' and 'S'. But Mr A did not mention to Santander that J was the individual he had dealt with when he fell victim to a separate investment scam a few months prior and sent funds from a separate bank account. The investigator noted the circumstances of both scams were very similar, with the same individual, J, offering 10% returns on one-year investments.

Our Investigator felt that as the previous scam was so similar, and Mr A had received warnings and scam education from the third-party bank just a few months prior, it was unlikely intervention from Santander would have broken the spell and prevented Mr A from making the payment. And they felt this was further evidenced by the fact Mr A fell victim to another similar scam a few weeks later with a third bank. And they did not think Mr A had a reasonable basis to believe the investment was genuine due to the returns being too good to be true, no formal documents being agreed and that he paid an individual directly rather than a business account. So, they thought Santander had acted reasonably when it did not reimburse Mr A.

Mr A did not agree with the outcome. He felt he was due a refund under the Contingent Reimbursement Model ("CRM") Code, and mentioned he was vulnerable at the time due to the previous scam he was the victim of, as well as other factors. Mr A mentioned that he noticed some similarities with the previous scam, but he was being reassured by the previous investment company that his funds would eventually be released. And J said he could help Mr A get back his original deposit with the previous investment with this one.

Our Investigator said that all relevant regulations had been taken into account when they reviewed the case, and that they did not think Mr A's vulnerabilities meant a refund was due in the circumstances. As an informal agreement could not be made, the complaint has been passed to me for a final decision.

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.

The starting point in law is that Mr A is responsible for any payments he's authorised himself. But the CRM Code requires a firm to reimburse victims of APP scams that fall under its provisions, unless it can be demonstrated that one of the exceptions to reimbursement applies. In this case, it has been argued that Mr A lacked a reasonable basis for believing that he was investing in a legitimate investment.

I do not have much information to consider, as Mr A says most of the evidence is no longer available. But I have seen some screenshots of some e-mails sent to Mr A by the alleged scammer. One of these appears to be an introduction to Mr A from J, an individual he sent money to for a previous investment. However, he had already raised a scam claim with the third-party bank he had used to send funds to J.

I therefore think Mr A should have had serious concerns about the legitimacy of this investment. It does not appear he received any official documentation that he has been able to produce, the returns of 10% were relatively high and the fact they were guaranteed should have been a red flag. And, as mentioned above, he had already raised a scam claim about previous payments sent to the same individual. Because of this, I don't think Mr A had a reasonable basis to believe the investment was genuine, so I think the exception to reimbursement applies in this case.

I've gone on to consider if Santander met its obligations under the code. This should include providing an effective warning for payments that pose a risk of financial harm. I think it could be argued that the payment was unusual and so there should have been some form of intervention. However, I don't think an intervention would have prevented Mr A from making the payment, I'll explain why in more detail.

Mr A had previously made a payment to the same individual for an investment that he had since raised as a scam to his account provider. And in response to this, his account provider had educated him on investment scams and provided relevant warnings. Despite this, Mr A made a payment from his Santander account to an almost identical scam less than six months later. I therefore think it is unlikely that a scam warning from Santander, would have broken the spell and prevented Mr A from making the payment at that time.

I appreciate Mr A has now raised vulnerabilities he feels would have affected his ability to protect himself from the scam. He has mentioned his mental state as a result of the previous scam and that he was suffering from depression at the time. He has not provided any evidence of this including how it impacted his decision making. I've thought about this carefully, but I can't agree that this therefore made him unable to protect himself against this scam. Mr A has said he thoroughly researched the business beforehand and telephoned J a number of times to try and ensure they were legitimate. I therefore think he took some steps to try and protect himself from the scam, and I don't think he would therefore be classed as vulnerable under the Code. Because of this, I do not think Santander needs to reimburse Mr A in the circumstances.

My final decision

I do not uphold Mr A's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 3 January 2025.

Rebecca Norris
Ombudsman