

The complaint

Mr R and Mr R complain about Santander UK Plc.

They say that Santander failed to protect them when they fell victim to an investment scam and would like Santander to refund them the money that has been lost.

What happened

Mr R and Mr R invested £20,000 in an investment with 'M' on 13 July 2021. Their payment was made via cheque.

Unfortunately, M turned out to be a scam – and Mr R and Mr R lost their money.

They complained about what had happened to Santander, but it didn't uphold the complaint, so they brought the complaint to this Service.

Our Investigator looked into things but didn't uphold the complaint. They explained that as the payment was made by cheque, it wasn't covered by the Lending Standards Boards Contingent Reimbursement Model (CRM) code – and that Santander couldn't have prevented the loss.

Mr R and Mr R via their representatives asked for an Ombudsman to make a final decision, so the complaint has been passed to me.

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.

Having done so, I have decided not to uphold this complaint. I know this will be disappointing for Mr R and Mr R, and I am very sorry for the situation they find themselves in and fully understand that they would want to attempt to recover the money that has been lost. But I need to decide whether Santander can fairly and reasonably be held responsible for this.

It isn't in dispute here that Mr R and Mr R have been the victims of a scam and have lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

In broad terms, the starting position is that banks such as Santander are expected to process payments and withdrawals that a customer authorises it to make, and as it isn't in dispute that Mr R and Mr R authorised the payment from their account, in the first instance they are assumed liable for the payment – however this isn't the end of the story.

While banks such as Santander are expected to process payments, they do also have a responsibility to look out for suspicious or unusual transactions that could be an indication that their customer may be at risk of financial harm.

Looking at the amount of the payment Mr R and Mr R made from their account, I think that arguably there was justification for Santander to have got in touch with Mr R and Mr R before processing the payment. However, in order for me to uphold this complaint, I would have to think that an intervention regarding the payment would have prevented the loss that Mr R and Mr R suffered here, and I'm afraid that I don't think it would.

Had Santander contacted Mr R and Mr R about the payment, I think it would have asked them if it was them making the payment, and what the payment was for. Mr R and Mr R would have confirmed that it was authorised by them and that they were making an investment in M.

At the point when the payment was made, it wouldn't have been apparent that M was a scam – just that it was a high-risk investment. It wasn't until some time later that the Financial Conduct Authority (FCA) published a warning about M, and the paperwork provided to Mr R and Mr R from M about the investment seemed thorough and professional.

So, I think it's unlikely that Santander would have had any concerns about what Mr R and Mr R were doing, and the payment would still have gone ahead.

While I understand that Mr R and Mr R's representative has said that they weren't experienced investors, and Santander should have questioned why they were making a payment to such a risky investment, they had already made the decision to invest having received paperwork from M, and it wasn't for Santander to assess the suitability of a third-party high-risk investment.

Santander's role here was to make the payment that Mr R and Mr R had told it to make. And I find that Santander couldn't have considered the suitability or unsuitability of a third-party investment product without itself assessing Mr R and Mr R's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from Mr R and Mr R would've gone far beyond the scope of what I could reasonably expect of Santander in any proportionate response to a correctly authorised payment instruction from its customers.

I am also satisfied that as soon as it was informed of the issue, Santander attempted to recover the funds, but the funds were already gone.

I have a great deal of sympathy for Mr R and Mr R. But it would only be fair for me to direct Santander to refund any loss if I thought it was responsible – and I'm not persuaded that this was the case. And so, I'm not going to tell it to do anything further.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R and Mr R to accept or reject my decision before 29 May 2025.

Claire Pugh
Ombudsman