

The complaint

Mr B holds/held an account with Santander UK Plc ("Santander").

Mr B's complaint is about Santander's refusal to reimburse him money he says he lost due to a scam.

Mr B is represented by CEL Solicitors in this matter. However, where appropriate, I will refer to Mr B solely in this decision for ease of reading.

What happened

The circumstances of this complaint are well known to all parties concerned, so I will not repeat them again here in detail. However, I will provide an overview of events.

Mr B says he has fallen victim to a cryptocurrency related investment scam. He says fraudsters deceived him into making payments to what he thought was a legitimate investment enterprise. Below are the fund transfers in question (I have tried to reconcile the differences between CEL Solicitors' list of disputed payments and Santander's):

Payment Number	Date	Beneficiary	Amount
1	12 November 2020	CB Payments	£2.00
2	12 November 2020	CB Payments	£2,200
3	18 November 2020	CB Payments	£4,500
4	19 November 2020	CB Payments	£3,000
5	24 November 2020	CB Payments	£2,500
6	26 November 2020	LondonLink OTC	£2,500
7	14 December 2020	LondonLink OTC	£9,900

8	17 December 2020	LondonLink OTC	£2,100
9	6 January 2021	TM	£2,500
10	13 January 2021	TM	£18,000
11	10 March 2021	TM	£20,000.00
12	10 March 2021	TM	£13,500
13	11 March 2021	TM	£5,000
14	12 March 2021	TM	£20,000
15	13 March 2021	TM	£8,500
16	17 March 2021	TM	£15,000
17	17 March 2021	TM	£5,500
18	31 March 2021	TM	£10,000
19	31 March 2021	TM	£13,500
20	6 April 2021	TM	£14,900
21	8 April 2021	TM	£20,000
22	8 April 2021	TM	£10,400

23	28 April 2021	TM	£24,700
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Mr B disputed the above with Santander. When Santander refused to reimburse Mr B, he raised a complaint, which he also referred to our service.

One of our investigators considered the complaint and did not uphold it. As Mr B did not accept the investigator's findings, this matter has been passed to me to make a decision.

What I have 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 find that the investigator at first instance was right to reach the conclusion they did. This is for reasons I set out in this decision.

I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

Regulatory framework

The regulations which apply in this matter are the Payment Services Regulations 2017 ("the PSRs").

Was Mr B scammed?

Mr B has provided little by way of evidence to support that he was scammed and suffered a loss as a result. However, I have decided to proceed on the basis that, on balance, he was scammed and suffered a loss. I say this because Mr B's testimony does include some of the typical hallmarks of a scam; and Santander appear to accept that Mr B fell victim to one. Further, taking a pragmatic approach, my view is that it would not be the best use of time if I asked CEL Solicitors to contact Mr B to provide further information – only for me to reach the same outcome.

Should Santander have recognised that Mr B was at risk of financial harm from fraud?

It is not in dispute that Mr B authorised the payment transactions in this matter. Generally, consumers are liable for payment transactions they have authorised. However, that is not the end of the story. This is because even if a payment is authorised, there are regulatory requirements and good industry practice which suggest firms – such as Santander – should be on the look-out for unusual and out of character transactions to protect their customers from financial harm. And, if such payment transactions do arise, firms should intervene before processing them. That said, firms need to strike a balance between intervening in a customer's payment to protect them from financial harm, against the risk of unnecessarily inconveniencing or delaying a customer's legitimate transactions.

I have borne the above in mind when considering the payment transactions in this matter.

From what I can see, Santander intervened in Payments 6, 7 and 10 by not allowing them to be made. Consequently, Mr B had to telephone Santander to process each of these

payments.

Were Santander's interventions proportionate?

Santander says the telephone call recordings regarding Payments 6, 7 and 10 are no longer available given the passage of time. However, Santander has been able to provide notes in relation to the calls. I have considered these to determine whether Santander's interventions were proportionate.

In response to the investigator's findings, Mr B submits, amongst other things: *"It is inequitable to assume that Santander did everything they could without tangible evidence. As an evidence-based service, this approach seems contrary to your usual standards."*

I do not accept this submission. It would be ideal to have the telephone recordings if they were still available. However, I have not seen anything to make me question the veracity of Santander's notes. On this basis, I am permitted to rely on them to assist me with reaching a conclusion on this complaint.

Payment 6

By way of a telephone call on 26 November 2020, Mr B spoke to one of Santander's advisers about Payment 6. The adviser asked Mr B what the payment was for. Mr B responded by saying that he was investing in cryptocurrency with his cousin. The adviser then asked Mr B whether he had made payments to LondonLink before. Mr B responded stating that he has known LondonLink and Coinbase for a while and has dealt with them in the past. The adviser recommended that Mr B contact the Financial Conduct Authority ("FCA"); and go on the FCA's website to use the scam smart tool.

I have thought about the nature of Payment 6, its value and what Mr B told the Santander adviser during the call – including what was suggested to him by the adviser. Having done so, I am persuaded that Santander's intervention in Payment 6 was proportionate to the risk identified – particularly for a transaction which took place in 2020. To my mind, what Mr B told the adviser was reasonable enough to alleviate any concerns Santander may have had about Payment 6.

Payment 7

By way of a telephone call on 14 December 2020, Mr B spoke to one of Santander's advisers about Payment 7. Mr B confirmed to the adviser that his payment was genuine, no one had asked him to make it and that it was going to a company he trusted.

I am satisfied that this intervention was proportionate to the risk identified for the same reasons I have set out above for Payment 6. Further, Mr B had already provided his reasons for making payments to LondonLink in the call connected to Payment 6 – thereby assuaging Santander's concerns.

Payment 10

Although not highlighted by the investigator at first instance, I can see, according to Santander's notes, that there was a third telephone call which took place with Mr B.

By way of telephone call on 13 January 2021, Mr B spoke to one of Santander's advisers about Payment 10. During the call, Mr B confirmed that the account he was paying into was a family account that he had been dealing with for a long time. Mr B stated he was trying to get his trades done by 15:00, so he could 'make his money'. Mr B said he was making

payment to an account in his own name (which was true); and confirmed that no one had asked him to make the payment.

I have thought about the nature of Payment 10, its value and what Mr B told Santander about the transaction. I have also considered that Mr B confirmed to Santander during the calls mentioned above – that he was involved in investing/trading. Having reflected on these points, I am persuaded that Santander’s intervention in Payment 10 was proportionate to the risk identified – particularly for a transaction which took place in 2021. Again, to my mind, what Mr B told the adviser was reasonable enough to alleviate any concerns Santander may have had about Payment 10.

Other payment transactions

I have thought about whether the other payments in this matter should have triggered Santander’s fraud detection systems prompting it to intervene. Having done so, I think an argument could be made to suggest that some of them should have triggered interventions. However, I do not think they would have likely been successful.

I have not seen anything to suggest that if Santander had provided Mr B with written warnings – they would have broken the fraudsters’ spell. Mr B’s representatives have suggested, amongst other things, that Mr B was very much taken in by the fraudsters at the time of the scam. For example, they submit, “*The scammer was so professional and your customer [Mr B] was completely convinced.*” Mr B also received a credit from the scam on or around 16 December 2020, which no doubt resulted in Mr B falling more under the fraudsters’ spell. Further, I am persuaded that had there been any additional human interventions from Santander – such interventions would have likely played out the same way as the telephone calls mentioned above.

In summary

In my judgment, the above factors suggest that had Santander intervened to try to protect Mr B from financial harm: it is likely Mr B would have frustrated such an intervention – thereby alleviating any concerns Santander had.

Recovery of funds

Mr B appears to have made his last payment to the scam from his Santander account on or around 28 April 2021. Mr B reported the scam to Santander on or around 20 May 2021.

The likelihood that even if prompt action had been taken by Santander on or immediately after Mr B reported the scam, any of the money transferred would have been successfully reclaimed, seems slim. I say this because of the time that had elapsed between Mr B’s last payment and when he reported the scam. In these types of scams, fraudsters tend to withdraw/transfer out their ill-gotten gains immediately to prevent recovery.

Further or alternatively, as Mr B’s payments were made to purchase cryptocurrency – which would have been forwarded on in this form – there would not have been any funds to recover. So, I am satisfied that it is unlikely Santander could have done anything to recover the funds.

Vulnerabilities

Mr B says that he was vulnerable at the time of the scam due to a change in his financial circumstances. This was, he says, a result of contracting Covid-19, which led him to being unable to work.

I have not seen anything to suggest that Santander knew or ought to have known about Mr B's personal issues at the time. Therefore, I do not find Santander should have dealt with Mr B's payments any differently in this regard.

Compensation for distress and/or inconvenience

I have considered whether an award for distress and/or inconvenience is warranted in this matter. Having done so, I am not persuaded that it is. I have not found any errors in Santander's investigation. Any distress and/or inconvenience Mr B has suffered is a result of the fraudsters' actions – not Santander's.

Conclusion

Taking all the above points together, I do not find that Santander has done anything wrong in the circumstances of this complaint. Therefore, I will not be directing Santander to do anything further.

My final decision

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 April 2025.

Tony Massiah
Ombudsman