

The complaint

Ms Z has complained that Santander UK Plc won't refund money she says she lost to a scam.

What happened

Where the circumstances of the complaint are well known to both parties, I won't detail them again here. Rather, I'll focus on setting out the key reasons for my decision. I hope Santander and Ms Z won't take this as a discourtesy; it's just a reflection of the informal nature of our service.

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 agree with the investigator's findings for broadly the same reasons, I will explain why.

I'm sorry Ms Z has been the victim of a scam, and I don't underestimate the impact this has had on her. But while I accept Ms Z has lost a lot of money due to being deceived by the scammer, I must consider whether Santander is responsible for the loss she has suffered. And, I don't think they are.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Ms Z knowingly made the payments from her Santander account – albeit under the direction and guidance of the scammer as she believed the investment opportunity to be legitimate. And so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of her account, Santander are expected to process Ms Z's payments, and she is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Santander to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Ms Z to Santander (either individually or collectively) were unusual enough to have expected additional checks to be carried out before the payments were processed.

When considering this, I've kept in mind that banks process high volumes of transactions each day. And that there is a balance for Santander to find between allowing customers to be able to use their account and questioning transactions to confirm they're legitimate – as it wouldn't be practical for banks to carry out additional checks before processing every payment.

The payments being disputed here were, individually, of a relatively low value – with £1,556.96 being the highest. Although Ms Z typically used her Santander account for low value day to day transactions, she'd made payments of a similar or greater value in the prior 12-months, which Ms Z's representative has acknowledged. Because of this, I don't think the individual value of the payments would've been seen by Santander as being unusual or out of character for Ms Z.

Ms Z's representative has said that the total loss (£4,274.37) all leaving the account within 24 hours, was out of character for Ms Z's typical spending, especially considering it was going to a cryptocurrency provider. I accept that the total Ms Z transferred was higher than usual (although in context of what I would generally expect a bank at that time to identify as suspiciously large, the amount itself isn't remarkably high) it was still in line with the pattern of behaviour on the account. I say this because having reviewed Ms Z's statements it is apparent, while of a lesser value, Ms Z has made multiple payments to the same payee/merchant on her account in succession (including on the same day) before. Because of this, I don't think this type of payment activity would've stood out to Santander as being as particularly unusual for Ms Z. Nor do I think it was so suspicious, or high risk in nature, whereby it gave Santander sufficient reason to suspect Ms Z could be falling victim to a scam.

Ms Z did make payments from her Santander account to a legitimate crypto provider, as part of the scam. By February 2022, I do accept that cryptocurrency investment scams were on the rise and Ms Z's representative has said that due to this Santander ought to have identified the payment as suspicious. While crypto providers are sometimes used for this purpose, they're also used by many individuals to invest in crypto legitimately. Because of this, I wouldn't necessarily have expected Santander to have carried out additional checks before processing the payments simply because they were going to a crypto merchant. But rather, I would expect them to take steps to protect customers that are proportionate to the identifiable risk. I have to bear in mind that if banks such as Santander were to be expected to intervene with every payment of a similar size to the ones being disputed here - and to crypto wallets in a consumer's own name - it could risk grinding the banking system to a halt.

It follows that, while there are circumstances where it might be appropriate for Santander to take additional steps or make additional checks before processing a payment, for the above reasons, I think at that time it was reasonable for Santander to assume the payments were being made for legitimate purposes. And so, I think it was reasonable for Santander to process the payments upon receiving Ms Z's instruction(s).

I've also considered whether, on being alerted to the scam, Santander could reasonably have done anything to recover Ms Z's losses, but I don't think they could. When Ms Z originally told Santander about the scam, she didn't provide it with accurate information about how the scam occurred. She said she had left her phone in a repair shop, and the assistant repairing the phone must have made the transactions. But due to how the transactions were made, it required either touch ID, face ID or a PIN to be entered on Ms Z's device. Due to this the claim was rejected.

It was some time after, that Ms Z told Santander that she had actually fallen victim to an investment scam. As Ms Z made the payments via debit card, the only option available to Santander to attempt to recover the funds was by way of chargeback. However, it's important to note that Ms Z didn't send the money directly to the scammer but instead to a legitimate cryptocurrency exchange (to an account in her own name under her control). As I understand, it was then sent to the scammer. So, it was always highly unlikely that Santander would be able to facilitate the recovery of the funds after they were moved on from Ms Z's wallet to the scammer, especially given the passage of time when Santander

were provided accurate information regarding the scam. There wouldn't have been any funds left to recover but, even if there was, it would've remained in Ms Z's control. I am satisfied a chargeback wouldn't have had any reasonable prospects for success. This is because Ms Z received the expected service from the crypto provider - that being the exchange of funds into crypto.

I also note that Ms Z has said she feels £300 compensation is required due to the distress and inconvenience she suffered. And while I don't dispute Ms Z would have felt frustrated and in her representatives' words 'shame' regarding the scam she fell victim to, for the reasons I have provided above, I can't hold Santander responsible for this.

It follows that I won't be asking Santander to do anything further.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms Z to accept or reject my decision before 25 June 2025.

Jade Rowe
Ombudsman