

The complaint

Mr G complains that Santander UK Plc (“Santander”) won’t refund the money he lost to what he believes to be an investment scam.

Mr G’s complaint has been brought by a professional representative but, for ease, I’ll only refer to Mr G in this decision.

What happened

Mr G has complains that Santander has declined to refund him after he made a number of payments to someone he now believes to be a scammer. Throughout this decision, I will refer to this person as “A”.

Mr G says he made the following payments to A in order to pay for property investment mentoring and to invest in some properties sourced by A:

Date of Payment	Payee	Purpose	Amount
10/10/2019	A’s business account	Property investment mentoring	£3,200
11/11/2019	A’s business account	Property investment mentoring	£3,200
09/12/2019	A’s business account	Payment to become a private client of A	£23,500
13/10/2020	A’s personal account	Personal loan (repaid in full with interest)	£5,000 £5,500 returned to Mr G
13/11/2020	A’s personal account	Funds to refurbish a property (repaid in full with interest)	£25,000 £29,340 returned to Mr G in May 2021
1/12/2020	A’s personal account	Refundable deposit for the purchase of 6 investment properties	£12,000

Mr G first became aware of A on a social networking website. At the time, A was marketing himself as a successful property investor who ran a successful property investment mentoring business. Mr G was interested in making a passive income so he got in touch with A.

In October and November 2019, Mr G made two payments of £3,200 to A to pay for some investment mentoring. He then made a third payment to become a private client of A. A told

Mr G that the investment opportunities presented to him after becoming a private client would ultimately mean he'd make this money back plus interest.

Mr G then made a further payment to A's personal account in October 2020. This payment was a small personal loan as A was having some cash-flow problems. A told Mr G that he would pay him back plus interest. A repaid Mr G in full plus £500 two days later.

Mr G then made a further payment of £25,000 to A in November 2020 to pay for the refurbishment of a property. A told Mr G he would return the invested amount plus interest once the property was sold. A paid Mr G £29,340 around 5 months later.

Finally, Mr G paid A £12,000 as a refundable deposit for 6 properties he was planning to purchase with A. The sale of these properties began in spring 2021 but A's company ultimately went into liquidation and after some back and forth, Mr G decided to pull out of the property purchase as he felt he was exposing himself to too much risk. A did not return Mr G's deposit and became uncontactable.

Mr G has said he is in a group of people who now feel they have been scammed by A. Many others in this group have said A didn't provide them with the returns he promised. Mr G's representatives have also directed this service to numerous news articles that demonstrate that A has been charged with numerous counts of fraud.

Concerned that he had been a victim of A, Mr G complained to Santander through his representatives. They said Santander failed to protect Mr G at the time he made the payments to A and that he should be reimbursed under the Lending Standards Board's Contingent Reimbursement Model Code ("CRM Code").

Santander didn't agree to reimburse Mr G's loss. It said as part of its investigations it had contacted the firm who were managing the administration of A's company and it had said it believed A's business was operating legitimately at the time Mr G made the payments in question here. It also pointed out that Mr G had received some returns on his investments with A. Ultimately, Santander felt Mr G's circumstances amounted to a failed investment rather than a scam and for this reason it didn't think the payments were covered by the CRM Code.

Unhappy with Santander's response, Mr G brought a complaint to this service.

Our investigation so far

Our investigator didn't think the complaint should be upheld. In summary, they thought what had happened to Mr G amounted to a civil dispute between him and A and because of this, Mr G wasn't due a refund under the Contingent Reimbursement Model ("CRM") Code. The investigator said there wasn't any evidence that A had, from the start, intended to defraud Mr G and Mr G had been provided with some of the services he had paid for and the returns he had been promised.

Mr G didn't accept the investigators findings. He said that the money he had sent to A had been an investment but he hadn't received returns, interest payments or the return of his capital as he had been promised. He said he had attended a handful of mentorship events but not anything significant and he hadn't earned back the fees he'd paid for these events either. He also stressed that the refundable deposit he paid for the 6 investment properties was never returned after the sale fell through. Overall, Mr G said he had been the victim of a well-known scammer.

Mr G's additional comments did not change our investigators mind and as an agreement could not be reached, the case 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.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer even when they have authorised a payment.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment (APP) scam, except in limited circumstances. But the CRM Code only applies if the definition of an authorised push payment (APP) scam, as set out in it, is met.

Is the CRM Code definition of an APP scam met?

Firstly, I have considered whether Mr G's claim falls within the scope of the CRM Code, which defines an APP scam as:

...a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.

To decide whether Mr G is the victim of an APP scam as defined in the CRM Code I have considered:

- The purpose of the payments and whether Mr G thought this purpose was legitimate.
- The purpose the recipient (A) had in mind at the time of the payments, and whether this broadly aligned with what Mr G understood to have been the purpose of the payments.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

Payments 1, 2 and 3

I have reviewed the evidence provided by Mr G and I'm satisfied the first three payments were to be used to pay for a mentoring programme. Mr G understood that A would take payment and he in return A would meet with him regularly to share his property investment knowledge and he would become involved in lucrative property investments that would allow

for the return of his original capital investment and more. I haven't seen anything to suggest that Mr G didn't consider this to be a legitimate purpose.

At the time, A was advertising a profitable property investment business running residential courses and offering one on one mentoring opportunities. So, I've then gone on to consider the purpose A had in mind at the time it took Mr G payments and whether this aligned with what Mr G intended A to use the payments for.

In summary, I haven't seen any persuasive evidence that demonstrates A didn't intend to act in line with the purpose agreed with Mr G, and it appears Mr G got at least some of the services he paid for.

Mr G attended a 3-day residential course (the 4th day was cancelled). He also attended two-day courses too and attended meetings with A at luxury hotels. And presumably, Mr G was initially happy with the services being provided as he made the third payment for further services 2 months after he made the first payment and a month after he made the second.

It also appears that A introduced Mr G to the investment made in November 2020. Mr G made his capital back plus some returns. This demonstrates that Mr G's funds were used for the intended purpose and Mr G got what he was promise - the return of his capital plus some profit. Based on the evidence I've seen, it also appears that A introduced Mr G to the investment in December 2020 too. Solicitors had been instructed and it appears that A was keen to move forward with the sale but this fell through when Mr G decided he was exposing himself to too much risk. It didn't fall through because A had simply "taken the money and run".

So, whilst I acknowledge that Mr G might now feel that he didn't get all of the services he paid for, I don't think it necessarily follows that this means he has been the victim of a scam. Agreements can fail for all sorts of reasons and in this case, I haven't seen any persuasive evidence that suggests A set out to deceive Mr G from the outset. He'd provided some of the services agreed and it seems he introduced Mr G to at least one profitable investment. The other didn't proceed because Mr G didn't want it to, and any further opportunities would have been impossible when A fell into financial hardship. Whilst unfortunate, I don't think this means Mr G has been the victim of a scam or that these payments should be covered by the CRM Code.

Payments 4 & 5

Mr G made the £5,000 payment to A in October 2020 for the purpose of a short-term loan. A told Mr G this amount would be returned to him plus interest. I haven't seen anything that persuades me that Mr G didn't think this was a legitimate request at the time.

Mr G made the £25,000 payment in November 2020 in order to invest in the refurbishment of a property. He was told a restriction would be registered over this property and when it was sold, he would receive his initial capital investment back plus some profit. Again, I haven't seen anything that persuades me Mr G didn't think this was a legitimate request at the time.

I've then gone to think about the purpose A had in mind for the payments when he took them from Mr G and whether this broadly aligned with what Mr G understood. I think it did.

A had told Mr G payment 4 was for a loan which he'd pay back with interest – which he did two days later. So, it appears that A used the money as agreed with Mr G. Furthermore, based on the evidence provided, it appears that a restriction was registered over the

property Mr G paid the 5th payment towards and when this property was sold, Mr G received his capital and some profit as agreed.

So, it appears that all of these funds were used as agreed with Mr G and isn't correct to say he didn't receive what he was promised or that he suffered a loss here. Overall, I haven't seen any evidence that persuades me that his funds weren't used for their intended purpose or that he has been scammed out of them.

Payment 6

I also don't think there is enough evidence to suggest A deceived Mr G into making the final payment for a property investment project which he didn't intend to fulfil. I understand that Mr G was told the £12,000 capital he invested was refundable, and ultimately, it wasn't. But again, I don't think this necessarily means he has been the victim of a scam.

Mr G and his representatives have provided lots of documentation which suggests the sale of the properties had begun to progress in early 2020. Conveyancing solicitors and other parties had been instructed. However, Mr G decided to pull out of the scheme as he believed he was shouldering all of the risk. This suggests to me that Mr G decided to not continue with the investment, rather than A had induced Mr G into making a payment towards an investment he had no intention of arranging.

So, whilst I also acknowledge Mr G's arguments that he was told this deposit was refundable and he didn't get it back, this isn't, in and of itself, evidence of this being a scam. In fact, the fact that properties had been found and the sale was apparently progressing suggests the opposite. Had A intended to defraud Mr G of this sum of money, there would've been no obvious benefit to him instructing solicitors and other third-parties. And Mr G realising that the investment might not be as low risk as he had been informed does not mean he has been the victim of a scam. It seems most likely to me that A had got into significant financial difficulty and simply wasn't able to pay Mr G back. It is impossible to know for certain what happened but the evidence I've seen suggests that something went wrong here, rather than A intended to defraud Mr G from the outset. So, whilst A might've misrepresented his ability to pay the deposit back, I don't think this means that Mr G was scammed out of these funds. The evidence suggests to me that A had a vested interest in the sale of these properties being a success.

Finally, whilst I am unable to share details about a third party and the nature of their relationship with their bank, the evidence I've seen regarding the beneficiary accounts, indicates that A's account was being used as expected and the bank hasn't said it has any concerns about how the account was being operated either.

Overall, I must make my decision based on what I think is most likely to have happened. And, based on the evidence I've seen, and in the particular circumstances of Mr G's case, I think it's more likely that not that A was attempting to operate as a legitimate business at the time Mr G made the payments here and that other factors ultimately meant the business failed. I haven't seen anything that persuades me that A set out from the beginning with the intent to defraud Mr G, or that Mr G has been the victims of a scam.

I want to acknowledge Mr G's arguments that A has now been charged with fraud and apparently has numerous victims. His representatives have provided links to various news articles. However, it is my role to look into what happened to Mr G specifically not what might've happened to others. And in the particular circumstances of this case, I haven't seen any evidence that persuades me that Mr G was the victim of a scam.

I've also thought about whether Santander should've done anything else to protect Mr G. I haven't been provided with any evidence that shows me Santander provided Mr G with a scam warning when the payments were made but I'm not going to go into detail on this because, given that I'm supportive of Santander's decision to conclude this is a civil dispute, there isn't any basis upon which any further intervention ought reasonably to have caused concern with the payments. So, I can't fairly criticise Santander for not having done more in these circumstances.

I know this will be a huge disappointment to Mr G. I sympathise with the position he has found himself in and I'm in no way saying he did anything wrong or that he doesn't have a legitimate grievance against A. But, for the reasons I've explained above, I don't think his circumstances meet the high legal bar for this to be a scam and because of this, I don't think it would be fair to hold Santander responsible for the money he lost.

My final decision

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 G to accept or reject my decision before 21 April 2025.

Emly Hanley Hayes
Ombudsman