

The complaint

Mr U complains that Santander UK Plc (“Santander”) didn’t refund him the money he lost, to what he believed to be an Authorised Push Payment (“APP”) investment scam.

In bringing his complaint to this service Mr U is represented, but for ease of reading I will refer to Mr U throughout this decision.

What happened

The background to this complaint is well known to both parties, so I won’t repeat it all in detail here. But in summary, I understand it to be as follows.

Mr U has explained that he became aware of an investment opportunity, with a company that I’ll refer to as “H”. Mr U has said that he attended a seminar and spent time talking to people involved in the investment, which he understood related to property development and was advertised as offering an annual return of 20%.

Believing this to be a good opportunity, Mr U decided to invest and made the following payments, by way of cheque, from the account he holds with Santander:

Date	Amount
8 July 2019	£100,000
11 November 2019	£73,000

Mr U did not receive the returns expected and H entered into liquidation in late 2021. Mr U now says the investment wasn’t genuine and that he is the victim of an investment scam.

In June 2024, Mr U complained to Santander, but it didn’t uphold his complaint. In summary, it didn’t consider Mr U had been the victim of a scam, instead it thought what had happened was deemed a civil dispute.

Unhappy with Santander’s response, Mr U brought his complaint to this service. One of our Investigators looked into things but didn’t think the complaint should be upheld. In summary, she said she was unable to say that H had set out to deliberately defraud investors. As well as this, she didn’t think, at the time Mr U made the payments, that the payments would have appeared unusual. And, even if Santander had intervened, she didn’t think it would have led Santander to have suspected H was anything but legitimate.

Mr U didn’t agree with our Investigator’s view. As agreement couldn’t be reached, the complaint has been passed to me for a 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.

Santander was a signatory to the Contingent Reimbursement Model Code (CRM Code), overseen by the Lending Standards Board. It required firms to reimburse victims of APP scams in all but a limited number of circumstances. However, the CRM Code only applies to APP scams that are in relation to “...a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer...”. So, the cheque payments Mr U made to H therefore aren't covered by the provisions of the CRM Code. Nonetheless, good industry practice required that Santander be on the lookout for account activity or payments that were unusual or out of character to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect the bank to take some steps to protect their customer.

That obligation, however, isn't engaged unless I'm persuaded that Mr U did indeed fall victim to a scam, rather than having a mere private civil dispute with H. To say that he was, it must be shown that the purpose for which Mr U made the payments and the purpose for which the recipient procured them were different—and that this difference arose due to dishonesty or deception on the part of the recipient. The key issue, therefore, is the intentions of the recipient at the time the payments were made. While I can't know what their intentions were, I have to look at the other available evidence and attempt to infer what their intentions likely were.

I've considered the evidence available, but I can't fairly conclude that Mr U has been the victim of a scam. It's accepted Mr U's purpose for making the payments was to invest in H and for the funds to be used towards property development. And that he was persuaded at the time this was a legitimate venture. I accept that H failed to deliver what was expected from the investment, but I haven't seen any clear evidence this was always what it intended; or that at the time of the payment, it planned to use Mr U's funds in a different way to what was agreed. I haven't seen persuasive evidence that H's intention was to defraud Mr U when it took his funds.

In making my judgment on this, I'm conscious H completed three separate developments. It was also working on other projects which it sold on to other developers when it ran into financial difficulty. These actions are indicative of a company operating legitimately.

At the time of the payments, H was a limited company that had been incorporated and operating since 2011. I'm aware H hasn't filed accounts since 2019, and it went into liquidation in late 2021. But financial mismanagement isn't enough to show it was not intending to use the funds for development projects. To the contrary, projects were being worked on/completed during the period when H wasn't filing accounts.

I appreciate some investigations are ongoing. But at this point in time, I haven't seen any persuasive evidence from H's liquidator, or any other external bodies, to show H was receiving funds for use in developments it had no intention of completing. Ultimately, the information we currently hold suggests that H was a failed investment venture, not a scam.

All things considered, in the circumstances of this case, I can't agree Santander was wrong to consider Mr U's situation a civil matter.

I think it might be useful to add, for the purposes of this decision, that even if I were to accept that what has happened was a scam (which for the avoidance of doubt and for reasons explained above I don't), I'm not persuaded that I would reach an outcome that would lead me to ask Santander to refund Mr U.

I say this because, as mentioned earlier, good industry practice required that Santander be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.

However, in the individual circumstances of this case, given the factors I've explained above and the information that would've been available at the time, I'm not persuaded that any level of intervention that could fairly have been expected of Santander would've uncovered any meaningful negative information, such that Mr U wouldn't have continued with his payments. I say that as, at the point the payments were being made, H was a legitimately registered company and there wasn't anything in the public domain at the time to suggest Santander should've been concerned that Mr U might be falling victim to a scam.

Alongside this, I've seen some of the promotional literature which was given out for the investment with H. It's persuasive and comprehensive information for investors which sets out how it operates, and the returns expected. I'm also mindful here that Mr U had attended a seminar and discussed the investment opportunity in person. It seems highly unlikely that a conversation with Santander would've prevented Mr U going ahead with the investment when he would've had access to this kind of information and, additionally, his belief in the legitimacy of H.

Santander couldn't have known what was going to happen to the company and how that might impact Mr U, and, in any event, it wasn't required to provide any investment advice. There is debate to this day (even with the benefit of hindsight and information that has come to light since) as to H's intentions when taking payments from Mr U. So, I think it's highly unlikely anything conclusive would've been available at the material time.

Similarly, given the length of time (July/November 2019 until June 2024) between the payments being made and Mr U approaching Santander, alongside the fact that by that point, H had entered administration, I don't think anything Santander did or didn't do would've impacted whether a recovery of funds from the receiving account could've been made. I think it's more likely than not that any recovery efforts were destined to fail after such a long period of time.

I'm sorry to hear of what's happened to Mr U and I have a great deal of sympathy for him. He has lost a significant amount of money and I don't doubt he has been badly let down by H. But I'm not persuaded this is something that Santander can fairly be said to be responsible for. And it follows that there isn't a reasonable basis upon which I can require them to do more to resolve this complaint.

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 30 September 2025.

Stephen Wise
Ombudsman