

The complaint

Mr and Mrs W complain that Santander UK Plc won't refund the money they lost when they were the victims of what they feel was a scam.

What happened

In February 2020, Mr and Mrs W found out about an opportunity to invest in a commercial lending company. They understood they would be investing in a bond from the company, that their money would be used to fund lending the company was carrying out, and that they would receive interest payments on their investment. And Mr and Mrs W made a payment from their Santander account to invest, as set out below:

Date	Amount
10 February 2020	£10,000

Unfortunately, Mr and Mrs W didn't receive all the interest payments they were told they would and the commercial lending company is now in administration. Mr and Mrs W then reported the payment they had made to Santander as a scam, and asked it to refund the money they had lost.

Santander investigated but said this appeared to be a civil dispute between Mr and Mrs W and the commercial lending company, rather than a scam. So it didn't agree to refund the money they had lost. Mr and Mrs W weren't satisfied with Santander's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think there was sufficient evidence that Mr and Mrs W had been the victims of a scam, so didn't think Santander should have to refund the money they had lost. Mr and Mrs W disagreed with our investigator, 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.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Santander is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires firms to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances. But customers are only covered by the code where they have been the victim of a scam – as defined in the code.

The relevant definition of a scam from the CRM code is that the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The CRM code also says it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So in order to determine whether Mr and Mrs W have been the victims of a scam as defined in the CRM code I need to consider whether the purpose they intended for the payment was legitimate, whether the purposes they and the commercial lending company intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of the company.

From what I've seen and what they've told us, I'm satisfied Mr and Mrs W made the payment here with the intention of investing with the commercial lending company. They thought their funds would be used to fund lending the company was carrying out, and that they would receive returns on their investment. And I haven't seen anything to suggest that Mr and Mrs W didn't think this was legitimate.

But I'm not satisfied the evidence I've seen shows that the commercial lending company intended a different purpose for the payment, or that Mr and Mrs W's and the company's purposes for the payment weren't broadly aligned.

The commercial lending company had been recorded on the government's register of limited companies and filed accounts for a number of years before the payment Mr and Mrs W made. And it continued to be registered and file accounts after the payment Mr and Mrs W made, until an administrator was appointed in 2022. But I wouldn't necessarily expect a scam company to be registered and file accounts in this way and for so long.

The commercial lending company was also approved by the financial services regulator at the time of the payment Mr and Mrs W made – which I wouldn't usually expect of a company operating a scam.

Mr and Mrs W have said they were introduced to the investment in the commercial lending company by an investment marketing company, which appears to be genuine and is still operating in 2025. But I wouldn't necessarily expect a scam company to be able to arrange this kind of introduction.

Mr and Mrs W were sent a number of documents, including an application form, a brochure about the bond they were investing in and confirmation of their investment – all of which appear relatively professional and legitimate. But I wouldn't necessarily expect a company operating a scam to provide this level of communication and documentation.

Mr and Mrs W have also said they received a number of interest payments back from the commercial lending company following their investment, totalling over £2,500. But I wouldn't expect a company intending to operate a scam to send such a significant amount back to a supposed victim.

I also haven't seen anything from the administrators of the company which suggests it was operating a scam. And I haven't been provided with evidence of any investigation by an external organisation which concludes that the commercial lending company was operating a scam.

Mr and Mrs W also haven't provided any clear explanation or evidence of why they believe their investment with the commercial lending company was a scam, other than that they haven't received the returns they were expecting or their initial investment back. But investments can fail for a number of reasons and investors not receiving the returns they were told they would does not necessarily mean that the investment wasn't genuine or the company intended to operate a scam.

So I'm not persuaded that the available evidence is sufficient to safely conclude that the purpose the commercial lending company intended for this payment was different than the purpose Mr and Mrs W intended. And so I don't think the circumstances here meet the definition of a scam, or that Santander has acted unreasonably in not agreeing to refund the money Mr and Mrs W lost from this payment as a result.

It's possible that material new evidence may become available at a future date, which suggests that the commercial lending company did take the payment using dishonest deception. If that happens, Mr and Mrs W can ask Santander to reconsider their claim for this payment and, if not satisfied with its response, bring a new complaint to our service.

Mr and Mrs W have also suggested that Santander should have warned them about the risks of their investment, and that this could have prevented them making the payment. But I wouldn't have expected Santander to provide financial advice about any investment they were making. And, as I don't think there is sufficient evidence that they have been the victims of a scam, I also don't think any questions I would have expected Santander to ask when the payment was being made would have uncovered significant concerns.

I'm sorry to disappoint Mr and Mrs W, as I know they have lost a significant amount of money. But I'm not satisfied that I can fairly ask Santander to refund them based on the evidence that is currently available.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 6 June 2025.

Alan Millward
Ombudsman