

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 June 2020, Mr and Mrs W found out about an opportunity to invest in an energy company. They understood they would be investing in a loan note from the company, that their money would be used to fund projects the company was carrying out, and that they would receive quarterly interest payments on their investment. And Mr and Mrs W then made two payments from their Santander account to invest, as set out below:

Date	Amount
13 June 2020	£25,000
13 June 2020	£5,000

Unfortunately, Mr and Mrs W didn't receive all the interest payments they were told they would and the energy company is now in the process of being liquidated. Mr and Mrs W then reported the payments 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 energy 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 payments was legitimate, whether the purposes they and the energy 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 payments here with the intention of investing with the energy company. They thought their funds would be used to fund projects 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 energy company intended a different purpose for the payments, or that Mr and Mrs W's and the company's purposes for the payments weren't broadly aligned.

The energy company had been recorded on the government's register of limited companies for some time before the payments Mr and Mrs W made. And it continued to be registered and filed accounts for a number of years after the payments Mr and Mrs W made, until a liquidator was appointed in 2024. But I wouldn't necessarily expect a scam company to be registered and file accounts in this way and for so long.

Mr and Mrs W have said they were introduced to the investment in the energy 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 a reservation form, confirmation of receipt of their funds and a certificate of their investment by the energy company – all of which appear relatively professional and legitimate. They were also sent a number of updates throughout the term of their investment about the activity and performance of the company. But I wouldn't necessarily expect a company operating a scam to communicate in this way.

Mr and Mrs W have also said they received a number of interest payments back from the energy company following their investment, totalling over £7,000. But I wouldn't expect a company intending to operate a scam to send such a significant amount back to a supposed victim.

A report from the official receiver dealing with the liquidation of the energy company from June 2024 said that the director of the company had attributed its insolvency to issues with financing caused by the global pandemic. And this appears to be a plausible explanation for the failure of the company, and doesn't suggest it was operating a scam.

I also haven't seen anything from the liquidators 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 energy 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 energy 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 energy company intended for these payments 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 these payments as a result.

It's possible that material new evidence may become available at a future date, which suggests that the energy company did take the payments using dishonest deception. If that happens, Mr and Mrs W can ask Santander to reconsider their claim for these payments 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 payments. 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 payments were 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