DRN-5328564

The complaint

Mr B has complained about Santander UK Plc not refunding the money he lost after falling victim to a scam.

What happened

Mr B looked up a particular cryptocurrency exchange, but found it wasn't accessible from the UK. He commented about this on social media, and was contacted by a scammer posing as a representative of that crypto exchange. They offered him the opportunity to have a broker's services to help run his trades, promising very large and fast returns. The scammer gave Mr B a link to help him sign up, but this was actually a link to the scammer's platform masquerading as the intended exchange.

Over the course of several weeks in spring 2024, Mr B made a series of payments from his Santander account to his own existing crypto account, totalling around £4,300. He then sent crypto on to the scammer's platform. Mr B was able to make withdrawals at first, but later was blocked from doing so and was asked to pay fees. He contacted the real exchange and was informed that he'd been dealing with an imposter.

Mr B reported the scam to Santander. Santander sympathised but didn't think they were liable for Mr B's loss.

Our Investigator looked into things independently and didn't uphold the complaint. Mr B asked for an ombudsman's review, so the complaint's been passed to me to decide.

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 doing so, I've taken into account everything which both sides have said and provided. Though as our service is a quicker and more informal alternative to the courts, I'll keep my decision focused on what I've found to be the key points.

I appreciate that Mr B fell victim to a cruel scam, for which he has my sympathy. I appreciate the scammer took advantage of his trust, and I understand why he would like his money back. It's worth keeping in mind that it's the scammer who's primarily responsible for what happened, and who really owes Mr B his money back. I also understand that Mr B may be unhappy with his own crypto wallet provider. But in this case between Mr B and Santander, I'm just looking at what Mr B and Santander are liable for. Having carefully considered everything that both sides have said and provided, I can't fairly hold Santander liable for Mr B's loss. I'll explain why.

While Mr B was misled about what he was paying for, he made the payments willingly himself, authenticating them using the proper process. So under the Payment Services Regulations, these payments would be considered authorised. And though Mr B didn't intend for the money to end up with a scammer, under the relevant regulations he is liable for the loss in the first instance. Broadly speaking, Santander had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

Santander should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether Santander should have done more in Mr B's case.

While I fully appreciate that this was a significant amount to lose in total, the payments were spread out over several weeks, and were not quite so large or rapid at any point that I'd have expected Santander to intervene. While they went to a crypto exchange, Santander weren't required to intervene on every crypto-related transaction. Customers can and do pay crypto exchanges legitimately. Indeed, Mr B had originally intended to sign up to a genuine exchange, and already had his existing crypto wallet at another one. There was a sufficient balance for each payment, and they were authenticated by the genuine customer to an account of his own at a legitimate and well-known exchange. So I don't think the payments quite met the bar of being so unusual or concerning that Santander needed to intervene.

Further, Santander did speak to Mr B about this spending. They talked to Mr B about crypto scams involving brokers or other third parties who'd help one with signing up or running the account, about finding opportunities via social media, and about being offered returns which were too good to be true. Mr B acknowledged these warnings and confirmed nothing like that was happening. He just said he was sending the money to his own crypto account to trade, and he was able to withdraw it. He didn't mention the third party's involvement or sending anything on to the scammer's platform. The staff member also warned Mr B about the risks of unregulated investments, and advised Mr B to look up and call his exchange to double check he was dealing with the real exchange, which Mr B acknowledged.

While Santander could have asked further open questions or probed his answers further, I should also bear in mind that I don't think they had great cause for concern or a need to intervene in the first place. And it was reasonable to keep their questioning proportionate to the apparent risk at hand. They did give Mr B relevant warnings, which he didn't heed. And I'm afraid I think Mr B's responses impeded their ability to reasonably uncover or prevent the scam. So I don't think I can fairly hold Santander liable there.

Finally, I've considered what Santander did to try to get the money back after Mr B reported the scam to them. Unfortunately, as the funds had been sent to Mr B's own crypto account then sent on, it wasn't possible for Santander to recall the funds. The CRM Code for scams didn't cover payments to one's own crypto account. And there was no realistic prospect of success for a chargeback or section 75 claim. Such a claim would've been against Mr B's own exchange rather than the scammer. And Mr B's exchange provided the service they were supposed to. I'm afraid there was nothing more that Santander could've reasonably done to get the money back here.

So while I'm very sorry to hear about what the scammer did to Mr B, I don't find that Santander failed in any particular duty towards him. And I'm here to decide this individual case impartially, rather than to teach Santander a lesson. I don't think Santander can fairly be held responsible for this loss, so I can't fairly tell Santander to reimburse Mr B.

My final decision

For the reasons I've explained, I don't uphold this complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 August 2025.

Adam Charles
Ombudsman