

## **The complaint**

Mr L complains that Santander UK Plc will not reimburse funds he lost to a scam.

Mr L is professionally represented, for ease I have only referred to Mr L in this decision.

## **What happened**

Mr L saw an advertisement on social media for what he thought was a genuine cryptocurrency investment opportunity. He said that between February 2021 and April 2021 he made payments totalling £44,286.12 towards the scam. Under the directions of the scammer he made several payments to a cryptocurrency exchange and then sent the funds on to them. After Mr L realised it had been a scam, he reported the matter to Santander but it did not reimburse his funds.

Our Investigator thought the complaint should be upheld. She thought Santander missed an opportunity to discuss the payments with Mr L. However she thought Mr L should be held equally responsible for his loss.

Santander didn't accept the Investigator's opinion, as such the complaint 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.

Having done so, I have reached the same outcome as the Investigator and for similar reasons.

It is common ground that Mr L authorised the payments. And in accordance with the Payment Services Regulations (2017) and the terms and conditions of the account, he is responsible for the loss. However, taking into consideration the relevant regulatory rules and guidance, codes of practice and good industry practice, Santander should have looked at the wider circumstances surrounding the transaction before making the payment and taken steps to keep its customer's accounts safe. Therefore, it ought to look out for payments which might indicate that its customer is at risk of financial harm due to fraud.

Scams involving cryptocurrency have increased over time. And I am satisfied that Santander ought fairly and reasonably to have recognised that its customers could be at an increased risk of fraud when using its services to purchase cryptocurrency and had appropriate systems for checking and providing warnings where necessary before it processed such payments.

I find the initial transactions were in keeping with Mr L's normal account activity in the months prior and I don't think the value of these payments were remarkable enough to raise suspicions and warrant Santander's intervention.

However, when Mr L made the payment of £4,995 on 12 February 2021, I think it ought to

have been concerned and intervened. I say this because, it was the second payment he made to the cryptocurrency platform on that day, making it the largest amount he had paid to the exchange in a day. Considering this and the frequency with which he was making payments, I think it ought to have enquired about the purpose of the payment and provided a general scam warning. However, I'm not persuaded a general warning that wasn't tailored to his circumstances would have resonated with Mr L and caused him to stop making payments.

However by the time Mr L made the payment of £11,300 on 3 March 2021, I think it ought to have raised further suspicions. This payment was more than double that of previous payments. Mr L was making increasingly larger value payments to the cryptocurrency platform which is a pattern typical of scams such as this. In light of this and the associated risk of cryptocurrency related purchases, I think Santander ought to have been concerned that Mr L might be at an increased risk of financial harm from fraud or a scam and enquired further about the payment and the circumstances surrounding it. Santander said it would have spoken to Mr L at the time, however there is not enough information available to satisfy me that it questioned Mr L appropriately and that the intervention was sufficient.

Records show Mr L stated he was paying for goods and services when he made the payment. It's likely there were options which he could have selected that better described the purpose of the payment, such as making an investment. That said, I don't find the answer he gave so unreasonable in the circumstances that it would lead me to conclude Mr L would not have cooperated if questioned. And as I have seen no evidence of coaching from the scammer, I think it's likely he would have been honest if questioned by a member of staff. Therefore had Santander questioned Mr L as I think it ought to have done, on balance, I find it is more likely than not the scam would have been uncovered. I say this because, with appropriate questioning Santander could have ascertained that Mr L found the advertisement on social media, there was use of screen sharing software, and that the scammer had control of his cryptocurrency wallet. Mr L had also been promised profits as high as 50% of the capital he invested which I find unrealistic. Santander could therefore have informed Mr L that the circumstances bore the hallmarks of a cryptocurrency investment scam and ultimately prevented the loss he incurred from 3 March 2021 onwards. While I appreciate that the payments were to an account in Mr L's name, Santander should still have recognised that he was at risk of financial harm from fraud and made enquiries as set out above. Therefore I think it can fairly be held responsible for Mr L's loss in such circumstances.

I have considered whether Mr L should also bear some responsibility for his loss and I think he should. It seems a friend told Mr L he was set to make a loss from the investment, and although Mr L expressed concern that the investment might be a scam, he continued to make payments without receiving a reasonable response from them or investigating the matter further. Mr L was inexperienced in investments, considering the sums he was investing, I would reasonably have expected him to conduct research into the firm and the investment before proceeding. The returns he was promised were unrealistic and ought to have raised concerns for Mr L. Had Mr L researched the firm, he would have noted that there were not only negative reviews regarding them but also a published warning by the Financial Conduct Authority about their practices. I recognise he was the victim of a cruel scam, however I am not persuaded he acted reasonably as such I find he ought fairly and reasonably to bear equal responsibility for the loss he incurred.

In light of this, Santander should reimburse the payments from 3 March 2021 onwards, it should deduct 50% for contributory negligence and reimburse what remains. It should also pay Mr L 8% simple interest per annum on the refunded amount from the date of each payment to the date of settlement for the loss of use of his money during the period.

## **My final decision**

My final decision is that I uphold the complaint and require Santander UK Plc to:

- Reimburse 50% of the loss from 3 March 2021 onwards, that is £15,050.
- Pay 8% simple interest per annum from the date of each payment to the date of settlement.

If Santander considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr L how much it's taken off. It should also give Mr L a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 16 January 2026.

Oluwatobi Balogun  
**Ombudsman**