

The complaint

Mr C complains that Santander UK Plc (Santander) won't refund money he lost on an investment scam.

What happened

What Mr C says:

Mr C had been looking for ways to invest funds that his late mother left him. He found an article which was apparently endorsed by a well-known TV personality and made some enquiries of the firm.

He was then contacted by an 'account manager' for an investment firm (which I will call 'firm X'). After discussion, he made an initial investment of £250. He was given log on details of an impressive website. He was advised to download screen sharing software and the account manager helped him open an account with a crypto exchange.

His questions were answered and he was impressed with the professionalism of firm X. He was assured that everything was protected by a bank compensation scheme, and that firm X were regulated by banking rules.

Mr C says his first attempt to send money to the crypto exchange from his Santander account was blocked and at that stage he was asked by firm X to open an account with an online, app-based bank (which I call 'bank B'). Support was given to open Mr C's account with bank B.

He sent money to his Santander account from his other high street bank account ('bank A') and from there he sent money from Santander to bank B, and from there to the crypto exchange. Mr C hadn't used his Santander account for several years before the payments.
(continued)

The payments were:

Date	Payment	Amount
14 April 2023 – 19 April 2023	Three credits from bank A	(£11,000)
20 April 2023	Faster payment to bank B – in branch	£10,000

28 April 2023	Credit from bank A	(£25,000)
28 April 2023	Faster payment to bank B – phone banking	£25,000
5 May 2023	<i>Faster payment attempted to bank B – phone banking</i>	<i>£25,000 (stopped and account blocked)</i>
Total loss (in bold)		£35,000

From bank B, Mr C then transferred the funds to the crypto exchange – there were 12 payments from bank B to the crypto exchange between 28 April 2023 and 29 April 2023 – totalling £35,000.

Mr C says that Santander spoke to him on the two payments shown and asked him questions about why he was moving the money, but no scam awareness or advice was given and the payments were allowed.

He then tried to make the payment of £25,000 in the branch and was asked to speak to Santander on the phone. He says she was rude and obnoxious and asked him if he had been involved in online dating. He was told that to make the payment, he would need to provide a photo of his partner – as she thought he was involved in a romance scam. But at no point did the call handler warn him about investment scams, and the payment was made.

Mr C realised he'd been scammed when he was asked to make a further payment of £25,000 – to enable a withdrawal to be made - it was then that his account was blocked and the payment stopped. The banking protocol was invoked – which led to him being contacted by the police.

Mr C says Santander didn't do enough to protect him and should refund the money he's lost.

Firm X was the subject of a warning from the Financial Conduct Authority (FCA) on 19 May 2023.

What Santander said:

The bank said the correct processes were followed when Mr C spoke to Santander on 28 April 2023 and 10 May 2023. Santander didn't refund any money.

Our investigation so far:

Mr C brought his complaint to us. Our investigator upheld it. He said:

- The first payment was done in branch and there was an interaction with the staff, but this couldn't have been enough – as the payment was made.

- It was unusual for someone to send money from Santander to bank B and then to the crypto wallet – this was a sign of a scam. So, Santander should've refused to put the payment through.
- He listened to the call on 28 April 2023 – on it, Santander had some concerns, but Mr C ignored the warnings given and went ahead. Mr C was not truthful about the reason for the payments – which showed he was under the spell of the scammers.
- So, he said Santander should have refused to process the payment.
- Our investigator said Santander should refund 50% of £35,000 – he said Mr C should stand some of his losses as he didn't do enough to protect himself. He didn't carry out any research into firm X – there were some negative reviews; he downloaded screen sharing software; and he hadn't provided any documents from the scammers as there weren't any – these should've been red flags to Mr C.

Santander didn't agree and said:

- Bank B (the online bank) should be held responsible for Mr C's losses – it was from there that the money was moved to the crypto wallet.
- Mr C should raise a complaint with bank B.
- Bank A should also bear responsibility for some of the losses.
- On the call on 28 April 2023, Mr C wasn't honest in his answers – he told Santander he was buying a property abroad; he said no one had asked him to move the money; he told the bank he was not buying crypto currency.

Our investigator disagreed with Santander – he said that even though Mr C wasn't honest on the call, Santander should've realised there was a scam going on and stopped the payment. He said that our service cannot compel Mr C to complain to bank A and/or bank B.

As no agreement could be reached, Santander asked for an ombudsman to look at Mr C's complaint, and so it has come to me.

I reached a provisional decision which did not uphold Mr C's complaint. It said:

I'm sorry to hear that Mr C has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr C didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Santander acted fairly and reasonably in its dealings with Mr C when he made the payments, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to another UK beneficiary – and in this case, the payments were made to Mr C's own account with bank B.

Having looked at this complaint, we asked more questions of Mr C and I record what he told us and to clarify what happened – as this is a slightly different sequence of events compared to his complaint letter:

Mr C confirmed to us that:

- He did only some limited research and so didn't see any online adverse reviews of firm X. He believed what he was told by firm X.
- He was told he could make profit of 400% in the first year.
- He opened the account with bank B on the instructions of the scammers.
- It was likely the scammers moved money from bank B to the crypto wallet and then to firm X – as he'd given them access through the screen sharing software.
- Firm X's website showed his 'investments' were worth £137,000.
- He only came to realise it was a scam when Santander told him so (on the later calls) – when he was trying to send the final payment of £25,000.
- Mr C sent the money to the crypto wallet as the scammer told him to do that.
- He couldn't tell us why he transferred money from bank A to Santander and then to bank B (rather than sending to bank B directly from bank A).
- He told Santander he was buying property abroad as he did intend to do that with the profits from the 'investment'.
- Mr C couldn't show us any evidence of his crypto account (it was closed); nor any WhatsApp or email chats – as he had a new phone. He didn't have any screenshots or evidence of the fake website.

The first consideration for me is - if the payments were of a sufficient size and were out of character with how Mr C normally used his account – then we would expect Santander to have intervened and spoken to him about them. I looked at Mr C's account, and it's fair to say that the payments were unusual compared to the way in which he used his account – it was opened in 2001 and had been dormant with no activity for at least seven years before the credits were received and the scam payments made.

So, it was right that Santander intervened in the payments and asked questions of Mr C – which I can see they did.

20 April 2023 - First payment: £10,000 – in branch:

Santander's records show that the branch asked Mr C what the payment was for – and he said it was to buy property abroad. He said he hadn't been put under any pressure to make the payment. He said he was using bank B because it 'gave better benefits'.

28 April 2023 - Second payment: £25,000 – phone banking:

There were two calls with Santander about this payment– because the bank had reservations about it. I record some of the conversation with Mr C:

Call handler: do you use bank B often? Mr C – no, but more often now.

Call handler: We see high increases in fraud and scams, its important you're honest with us in your answers. This includes giving us a different payment reason than the real one. If this turns out to be a scam it's unlikely we can get the money back.

Call handler: Did anyone ask you to lie or mislead us? Mr C: no

Call handler: Has anyone pressurised you into making the payment? Mr C: no.

Call handler: Why are you transferring the money? Mr C: to buy a property abroad (call handler could see that was the same reason he gave in the branch previously – he commented on an internal call).

Call handler: where did you get the details of bank B from? Mr C: it's my existing account.

Call handler: Why didn't you make the payment to bank B direct from bank A? Mr C: I like how you work.

Call handler: Has anyone asked you to do it that way? Because it's harder to trace if so. Mr C: no - I like how Santander works.

Call handler: Is it for crypto currency? Mr C: no.

The payment was then released.

So, on the call – Mr C wasn't honest about the reason for the payment – even though he was asked to be so by Santander – he said it was to buy property abroad; and in response to a straight question asking if he was buying crypto currency – he said he wasn't. He also denied he was being coached or asked to do it by someone else – when he told us he was directed to do so by the account manager, using screen sharing software. He told Santander he was using his existing account with bank B – not that he'd been asked to open it by the scammers.

Therefore, I don't think in these circumstances I can reasonably expect Santander to have gone any further. If, for example, Mr C had said he was investing and/or buying crypto, then we would've expected Santander to go further – and for example, ask more open questions such as:

- How did you hear about the investment?
- How were you contacted about it?
- Where did the money come from that you're investing?
- Where is the money going to from your crypto wallet?
- What do you know about crypto investing?
- Have you made crypto investments before?
- How were you given the bank account details where the money was to be paid to?
- Have you given control on your devices to anyone else?

But here – as Mr C didn't admit to the true purpose of the payment, I can't reasonably expect Santander to go any further and ask the questions which would've likely uncovered the scam.

And while the records of the branch interaction with Mr C on the first payment are limited – I am persuaded that it's more likely than not that he told the branch the same story on 20 April 2023; or would've done so if they'd pushed him harder.

Third (unsuccessful) payment: £25,000 – calls on 5 May 2023, 10 May 2023, 11 May 2023, 12 May 2023, 22 May 2023 and 24 May 2023.

This was after the first two payments in question were sent, but I reviewed the calls because of the complaint Mr C has raised about the service provided by Santander.

And on the calls, it's clear that further questions were asked of Mr C as the bank had concerns that he was being scammed.

The bank wasn't convinced by Mr C's continued explanations as to why he was using Santander as the intermediary; and were concerned he was being elusive about the purpose of the payment – for example, they couldn't see why he needed to make the payments immediately when he hadn't yet found a property to buy. And so – Santander then refused to make the payment and blocked Mr C's account.

Having reviewed the calls – I'm satisfied that Santander was expressing concerns that Mr C was being scammed and were asking him questions about what was going on. While I can see that Mr C found the questions intrusive I'm satisfied the calls were appropriate to try to protect Mr C from further harm – which in fact they did as the last payment was stopped.

Recovery of money: We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Santander took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money.

And here, the funds went from the Santander bank account to bank B and then to a crypto currency merchant; the loss occurred when crypto was then forwarded to the scammers. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover.

I'm sorry Mr C has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but on the balance of evidence I've reviewed, my provisional decision is that I can't reasonably hold Santander responsible for his losses.

Responses to the provisional decision:

Santander agreed with it, and Mr C didn't respond.

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.

As Santander agreed with the provisional decision, and Mr C didn't respond, my final decision is unchanged from it – which means I don't uphold this complaint.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 4 April 2025.

Martin Lord
Ombudsman