

The complaint

Mr B complains that Santander UK Plc won't refund the money he lost after he fell victim to a scam.

What happened

In April 2023, Mr B saw an advert online for a company offering investment opportunities – I'll call this company "A". Mr B followed a link to A's website, which seemed professional, and left his details. He was then contacted by someone working for A who set out how they could help him with his investment plans. Mr B was encouraged to download remote access software and to open a trading account and accounts with third party cryptocurrency exchanges. Unfortunately, and unknown to Mr B at the time, A was not legitimate, he was dealing with a scammer.

Mr B made various payments to the scam from his Santander account and from accounts held with other banks. Some of these payments were for direct investment, and some were for a trading certificate, withdrawal fees and taxes. Mr B says that when he was asked to pay more fees and taxes, he became suspicious, and when the scammer then stopped replying to him, he realised he had been the victim of a scam.

Mr B contacted Santander about the scam payments in October 2023, and it looked into what had happened, but it did not agree it was liable for his loss. Mr B wasn't happy with Santander's response, so he brought a complaint to our service. An investigator looked into the complaint, and they upheld it in part. They said they could only see evidence that two payments from Mr B's Santander account were related to the scam - £5,000 on 2 June 2023 and £2,059.80 on 23 June 2023. But they felt that the first of those payments was large enough that Santander should have intervened directly to question Mr B about what the payment was for. They felt that, had it done so, it was likely the scam would have come to light and Mr B would not have made any further payments.

Santander disagreed with the investigator's opinion, it noted that Mr B had a history of payments to cryptocurrency, meaning the scam payments were not so unusual in the context of his account. It did not feel it was reasonable to have expected it to intervene.

As no agreement could be reached this case was passed to me for a decision.

I issued my provisional findings on this case on 27 February 2025, explaining why I felt it should not be upheld. Santander made no further comments in response to that provisional decision. Mr B responded disagreeing with my findings, he maintains that direct intervention from Santander would have stopped the scam and prevented his loss.

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 my provisional decision I explained the following:

"It's not disputed that Mr B authorised the payments that are the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr B is responsible for them. That remains the case even though Mr B was the unfortunate victim of a scam.

Because of this, Mr B is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether Santander acted fairly and reasonably in its dealings with Mr B, or whether it should have done more than it did.

Firstly, I note that Mr B has stated that there were around 19 payments to the scam (to various cryptocurrency accounts) from his Santander account. But, as noted by our investigator, having considered the detailed messages exchanged between Mr B and the scammer, there is only evidence to support that two of these payments were to the scam – the two payments detailed in the background to this complaint above. I can also see from those conversations with the scammer that Mr B referred to having invested in cryptocurrency previously, so it seems likely that the other payments were unrelated to this scam. I have therefore only considered how Santander should have responded to these two payments.

I acknowledge that the £5,000 was a significant payment in the context of Mr B's account usage due to its size, it was rare for Mr B to make payments of over £1,000. In addition, this payment was identifiably to an account associated with cryptocurrency, which would be an additional risk factor given that, by the time of this payment, Santander would have been aware of the general risk of scams associated with cryptocurrency payments. However, Santander would also have been able to see that Mr B had been making payments to cryptocurrency for some time, his first cryptocurrency payment had been made around a year earlier. So, this kind of activity was not wholly unusual for the account.

With this in mind, I think that a proportionate intervention from Santander at this stage would have been for it to provide a written warning relating to cryptocurrency investment scams. I don't think that the circumstances merited more direct contact with Mr B at this stage.

The question then is whether such a warning would have been likely to stop Mr B from making any further payments to the scam. And, having thought very carefully about this, I do not consider that a proportionate warning about the risks of cryptocurrency investment scams would be likely to have stopped Mr B from making any further payments to the scam. I say this because I have looked very closely at the conversation between Mr B and the scammer, and it is clear that Mr B continued to make payments to the scammer even when he did have concerns that he was being scammed. As an example, after the payment for £5,000 had been made, Mr B was told he would need to make another payment for further trading to enable the withdrawal of his profits. At this time, he repeatedly expressed his concerns about what he was being asked to do, saying things like:

"...you continue to create ways to extract money from me."

"I don't believe you no one bit."

"I am angry, bitter, and disappointed with myself for trusting you."

"You are all same people – cheats."

Mr B also acknowledges in the chat that he has repeatedly been promised he will be able to withdraw his money, has made payments to facilitate that, and then has been unable to withdraw. So, it was clear that he had some significant concerns at this stage, but he nonetheless went on to make the further payment on 23 June 2023.

I can also see, that after Mr B raised these as scam payments in October 2023, he continued to correspond with the scammer, and to make additional payments to try and release his 'profits'. In fact, I can see that Mr B made payments as late as January 2024, by which stage he was aware that this investment was considered a scam and had already referred two complaints to our service about how his banks had handled the scam payments.

With all of this in mind, I don't think I can reasonably say that any proportionate intervention from Santander would have stopped Mr B from making payments to the scam, given that he continued to make payments even after he was clearly fully aware that it was a scam and not a legitimate investment. On this basis, I don't think I can fairly say that Santander missed an opportunity to prevent Mr B's loss, so I don't currently intend to say it should refund any of that loss to him.

I've also thought about whether Santander did all it could to try to recover Mr B's funds when he told it of the scam. But unfortunately, due to the nature of the payments Mr B was making I don't consider that Santander could have done anything to recover the funds he lost.

I'm sorry to disappoint Mr B as I know that he has lost a significant amount of money. But, overall, I'm currently satisfied that Santander acted fairly here and that any reasonable, proportionate intervention from Santander would not have prevented Mr B from making further payments to the scam. It follows that I don't think Santander is liable for Mr B's loss and won't be asking it to refund any of those losses to them."

I appreciate Mr B taking the time to respond to my decision, but nothing he has said changes my findings as set out above.

I consider that a written warning would have been an appropriate level of intervention from Santander given what it knew about the payment and about Mr B's account history. Mr B has said that a frank discussion with Santander about the scam would have enabled him to understand that he would not receive any returns no matter how many payments he made. But quite apart from the fact that I consider a written warning was appropriate intervention here, I don't agree that it is reasonable to conclude that a conversation with Santander would have stopped Mr B from proceeding. When Mr B raised the payments as a scam with Santander in October 2023 he spoke with Santander and was given educational information regarding investment scams, but he still decided to go ahead with further payments to the scammers even though he knew at this stage that he had been the victim of a scam. In these circumstances I think it is very difficult to say that further intervention would have prevented Mr B's loss, even if I did think such further intervention was appropriate.

As a result, my decision remains unchanged. I do not think Santander can reasonably be expected to have prevented Mr B's loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 April 2025.

Sophie Mitchell
Ombudsman