

The complaint

Mrs M complains that Santander UK Plc won't refund payments she made towards an investment scam.

What happened

On social media, Mrs M came across a fraudster posing as an investment broker that I'll refer to as 'N'. After speaking with N via WhatsApp and on the phone, she was persuaded to take out three loans to 'invest' using N's platform. To get these, she told lenders they were for home improvements.

To invest, Mrs M sent the loan proceeds from her Santander account to her Revolut account, before they were transferred to a cryptocurrency exchange. From there, the funds were exchanged and sent to N's cryptocurrency wallet, which Mrs M believed was connected to its 'investment platform' (in fact, the funds simply went to fraudsters). She's explained she was guided through taking these steps with N on the phone using remote access software on her device.

When Mrs M transferred her funds between Santander and Revolut, Santander asked her to select the payment purpose from a list of options. She said she was transferring money to her own account, and she was subsequently shown a warning about safe account scams. Santander made no further interventions with the payments.

Revolut detected that the first attempted payment to the cryptocurrency exchange was suspicious and asked her for its purpose. When she answered '*something else*', one of Revolut's agents asked further questions about the payment via its chat facility. In summary:

- Revolut's agent mentioned the increasingly sophisticated techniques used in scams and how people pretend to be '*a financial institution, government institutions, trusted online merchants, and exciting investment opportunity or even people you know*'.
- They went on to describe an emerging fraud trend they'd seen – going into detail about the hallmarks of a particular safe account scam. They asked if that's relevant to Mrs M. She said she '*just made a transfer to her crypto exchange account*'. Revolut proceeded to warn her that fraudsters spoof numbers, and how no bank or institution should guide her on what to say.
- The agent went on to ask if she was paying someone she didn't know or recently met online, as well as whether she'd been asked to pay an upfront fee as part of an investment. Mrs M replied that she'd not been in contact with anybody.
- Mrs M also confirmed that she'd not been asked to install any apps like AnyDesk or TeamViewer on her devices.
- Amongst this, Revolut also asked her two more questions relating to safe account scams.
- Finally, the agent said that if she'd been told to not inform them or withhold information, the scammer was trying to bypass Revolut's controls. And that if she

has not been honest, they couldn't help and she risked losing her money. They added that she could return to the app and decide whether to continue after considering the information.

The following morning, Mrs M attempted a further transfer, this time selecting the payment purpose as '*investment*'. As before, an agent asked her more questions about this. In summary:

- The agent provided the same general warning about the sophistication of scams and who fraudsters pose as.
- They asked Mrs M to confirm her identity by sending a selfie.
- They highlighted the importance of taking her time with investment decisions and asked her for more information. She said she was making an investment using a cryptocurrency exchange which she had been using for a while.
- The agent asked if she'd been promised returns which seem too good to be true, like doubling the investment or a guaranteed return – Mrs M said no.
- When she was asked whether she conducted research and understood her investment, Mrs M replied she'd 'answered all of these questions before', she'd 'been doing that for months' and she knew 'everything about it.'
- She was then warned and asked again about safe account scams and whether she'd been told to ignore their warning – she said no.
- Finally, they reminded her to take her time and verify it's a genuine investment opportunity – they added to not share details of the investment account or transfer money to access funds.

Following this conversation, Mrs M went ahead with the transfer, alongside two more during the same month. She said she realised it was a scam when she was later asked to pay fees. However, the conversation records between her and N suggest the adviser continually stalled making a withdrawal – and during that time her investments reduced dramatically.

Mrs M lost £60,000 to the scam in total. I've included details of the relevant information surrounding the disputed payments below:

| Date | Description |
|---------------|---|
| 29 March 2023 | £20,000 loan received from MBNA |
| 29 March 2023 | £20,000 payment from Mrs M's Santander account to Revolut |
| 29 March 2023 | £20,000 payment attempted from Mrs M's Revolut account to her with a cryptocurrency exchange |
| 30 March 2023 | £20,000 payment made from Mrs M's Revolut account to her account with a cryptocurrency exchange |
| 20 April 2023 | £20,000 loan application declined by Santander |
| 21 April 2023 | £20,000 loan received from Novuna |
| 21 April 2023 | £20,000 payment from Mrs M's Santander account to Revolut |
| 21 April 2023 | £20,000 payment made from Mrs M's Revolut account to her account with a cryptocurrency exchange |
| 28 April 2023 | £20,000 loan received from Zopa |
| 28 April 2023 | £20,000 payment from Mrs M's Santander account to Revolut |
| 28 April 2023 | £20,000 payment made from Mrs M's Revolut account to her account with a cryptocurrency exchange |

Using a professional representative, Mrs M disputed the payments with Santander and Revolut. Santander refused to refund them, citing how she authorised the payments. Revolut

similarly declined to refund them, because it didn't receive the requested information to assess what happened.

Unhappy, she brought her complaints to our service. I issued provisional findings upholding the complaint in part. I explained why I thought Santander ought to have stepped in before the first payment was made and how I think it's likely it would've stopped Mrs M losing money to the scam. Because I provisionally decided Revolut also should have done more, and I thought Mrs M should've reacted differently, liability was split between the three parties for her losses.

Mrs M and Revolut accepted my findings. Santander didn't. In summary:

- It highlighted there's no expectation that every transaction that turns out to be a scam ought to have been detected.
- It said that central to determining what Santander ought fairly to have done is considering how the payment went to her own account.
- It said customers make genuine large one-off payments. Mrs M applied for a loan for home improvements, which is one of many reasons for customers making such payments.
- It argued that had it spoken to her about the payments, it would've established it was going to an account within her control – it suggested she'd have likely said it was for home improvements.
- It pointed out how Revolut had better information to have a more meaningful intervention because it could see where the payment was going.
- It noted that Revolut had a relevant conversation about the payment, but it didn't uncover the scam. So it doesn't think it could have either.
- It highlighted that the Contingent Reimbursement Model and the newer Authorised Push Payment Reimbursement Scheme holds the last firm responsible and doesn't apply to payments between the customers own accounts.
- Against this backdrop, it doesn't think it's fair to hold it liable. It asserted that liability should be split between Mrs M and Revolut, and not Santander.

As a result, the complaint has come back to me to make a final decision. To be clear, while I'm also deciding Mrs M's complaint about Revolut, this decision will focus solely on whether Santander acted fairly and its liability for the payments.

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.

I've carefully considered Santander's response to my findings, but it's not changed my mind about what's a fair outcome to this complaint. I'll address what I consider to be the key points.

I agree with Santander that not every payment that turns out to be fraudulent ought to have been detected. I also accept that its knowledge that the payment was going to an account in her own name would've provided it with some reassurance. But as my provisional findings explained, I don't consider it to conclusively mean that all was well, given the prevalence of multi-stage fraud. And given the other circumstances I described – a significant payment to a new payee with an EMI and an indication of malware – I find that Santander ought reasonably to have stepped in to establish the circumstances of the payment before it made it.

I recognise that Santander had different information available to it than Revolut to inform this conversation. But I'm satisfied my provisional findings explained why I think, with the information Santander knew and what would've likely been revealed, it would've remained concerned she was falling victim to multi-stage fraud. I also explained why I consider its context of what multi-stage fraud looked like would've likely prevented Mrs M going ahead.

In saying that, I recognised that Revolut did step in but it didn't prevent her losses. But as I said, I don't think it adequately scrutinized Mrs M's responses or provided the context I'd reasonably expect. So I don't think it's persuasive evidence that a better, more thorough intervention wouldn't have worked.

I've finally reflected on Santander's position that fairness dictates that liability should be split between Revolut and Mrs M – and it's not reasonable to hold it liable.

But I consider I've set out how, if Santander took the steps I'd have expected, it could've have prevented the losses suffered. The fact that the money wasn't lost at the point it was transferred to Revolut doesn't change that I think Santander can fairly be held liable in such circumstances.

In saying that, I've noted its point that the Contingent Reimbursement Model (CRM) and the newer Authorised Push Payment Reimbursement Scheme holds the last firm responsible and doesn't apply to payments between the customers own accounts.

But I don't find the narrower scope of these schemes precludes me from considering whether Santander acted fairly here – indeed, my role to consider what's fair and reasonable requires me to do so.

And I note that the Payment Services Regulator (in relation to the reimbursement rules) has reminded firms that fraud victims have a right to make complaints and refer them to the Financial Ombudsman Service. And how that exists separately from the reimbursement rights and that APP scam victims will still be able to bring complaints where they believe that the conduct of a firm has caused their loss (in addition to any claim under the reimbursement rules).

It follows that I've not changed my mind about what is a fair outcome to this complaint. For completeness, I've included my provisional findings again below.

The starting position

The starting position in law is that Mrs M is responsible for payments she made. And Santander had a duty to make the payments she told it to.

But, as supported by the terms of the account, that didn't preclude Santander from making fraud checks before it made a payment. And, taking into account regulatory expectations and good industry practice, I'm satisfied that it should fairly and reasonably have done this in some circumstances.

Should Santander have recognised that Mrs M was at risk of financial harm from fraud?

I've considered Santander's understanding that these payments were going to an account in Mrs M's own name. I accept this would've provided reassurance to Santander to a certain extent, but I don't think it's conclusive evidence that all was well with these payments.

That's because, by March 2023, when these disputed payments began, Santander would've known about the prevalence of multi-stage fraud – where customers often move money to

an account in their own name before moving it on again to a fraudster as part of a scam.

So I think this factor should've been considered amongst other factors to determine whether Mrs M was at risk. And looking at all the circumstances together, I think there was cause for concern from the first payment to Revolut. I've noted:

- It was a single payment for £20,000 – significantly higher than her general spending on the account.
- The payments went to what appears to be recently set up payee with an electronic money institution (EMI), matching known patterns of fraud.
- There was an indication of potential malware being used when she made the payment.
- She received a loan into the account shortly before it was made.

Taking this all into account, I think Santander ought to have recognised Mrs M was at an increased risk of financial harm from fraud from the first disputed payment, notwithstanding that the payment was going to an account in her name.

What kind of warning should Santander have provided?

Santander's records indicate that it asked Mrs M to select the payment purpose from a list of options – and she said she was transferring money to her own account. Subsequently, she was shown a warning about safe account scams.

Given the factors I've described and the risk of financial harm, I'm not satisfied a written warning was enough. Instead, I think Santander ought to have spoken with Mrs M and asked open and probing questions, with relevant context, to better understand the circumstances surrounding the payment. Within this, I'd have expected Santander to have highlighted, in clear and understandable terms, how multistage fraud commonly happens – for example, under the guise of safe account scams or investment scams.

If Santander had provided a warning of the type described, would that have prevented the losses Mrs M suffered from the first payment?

I've carefully considered how Mrs M would've responded to Santander had it provided the type of warning I've set out. I've noted she misled lenders about why she needed the loans – she said they were for home improvements. And I've considered how, when Revolut asked her about the purpose the payments, while she said it was an investment, she didn't reveal that someone else was involved or how they'd used remote access software.

Accordingly, I think it's likely she wouldn't have been forthcoming with Santander. But, even so, I'm not convinced her story could've stood up to reasonable scrutiny. For example, if Mrs M said the money was ultimately for home improvements, that doesn't adequately explain why she needed to move the money to Revolut first. And, in the absence of evidence showing any detailed coaching, I'm mindful it would've have been tricky for her to explain specifics about what these home improvements were – something I'd have expected Santander to probe given its knowledge of how victims of scams are coached.

Even if I'm wrong about the above, I think it's likely that, with adequate context around multi-stage fraud, Mrs M would've realised for herself that her circumstances matched those of a scam and not gone ahead with the payment.

After all, I've noted that the scam she fell victim to wasn't unusual. For example, she found N on social media and she'd an 'account manager' who was helping her, and they were using

remote access software. These are hallmarks of typical investments scams that I'd have expected Santander to have clearly told Mrs M about within the context of its conversation with her about multi-stage fraud.

In saying Mrs M wouldn't have gone ahead, I've reflected on the willingness she'd shown to make these payments and to do as N asked – taking out significant loans and misleading firms in the process. But I think there's a difference between someone's eagerness to capitalise on what they've been led to believe is a 'guaranteed win' and someone who's been clearly shown the likelihood they're being scammed and carries on regardless. Here, if she'd been given clear indicators she was at risk of a scam, I think it's likely Mrs M would've thought twice about the payment. Afterall, this wasn't her money to lose – it was a loan she'd clearly struggle to repay if the investment wasn't genuine.

In saying that, I've also considered how the intervention would've been from the first significant payment towards the investment. In other words, she hadn't made significant profits at this point, which perhaps could've persuaded her that it was worth the risk of a scam – nor was she chasing her losses. In these circumstances, I find it more likely that she'd have been receptive to context showing N's red flags.

I've also considered how Mrs M's dealings with N came to an end. The complaint from her professional representatives said she was suspicious when she was asked to pay fees. But from the conversation records I've read between her and N, it seems they consistently stalled making a withdrawal, during which time her profits turned to losses. Mrs M could've, as we see in other scams, been persuaded to carry on and 'chase the loss'. But I think it's relevant that she didn't and instead recognised that something wasn't right. It follows that I don't think she was oblivious to warning signs.

I've finally considered how Revolut didn't, in my mind, adequately intervene – while it asked some relevant questions, I don't think these sufficiently probed nor challenged her answers. And crucially, a clear context wasn't provided so Mrs M could see for herself how she was risk. It follows that I've not seen conclusive evidence that, had she been warned in the way I'd reasonably expect given the nature of these payments, she would've ignored it and made the payments anyway.

Of course, I can't say for certain how things would've played out. But civil disputes like these are only ever decided on the balance of probabilities – in other words, what is more likely than not to have happened. Here, I'm persuaded that, had Santander carried out an appropriate intervention with the first attempted payment for £20,000, it's more likely than not that the scam would have been exposed and Mrs M wouldn't have lost more money. In those circumstances I'm satisfied it's fair to hold Santander responsible for some of her losses.

I say some of her losses because I've also provisionally decided that it's fair to hold Revolut responsible for her losses from the first disputed payment. I see no reason why Revolut is more or less responsible than Santander. So in these circumstances, I think it's fair to split liability equally between them. This leaves me with the final question of Mrs M's contributory negligence to determine what both firms must pay to put things right.

Should Mrs M bear any responsibility for her losses?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

To be clear, I don't wish to blame her for being the victim of a scam. But in assessing whether Santander and Revolut acted fairly, I must also consider whether her actions fell

below what I'd expect of a reasonable person.

I can see how Mrs M was taken in by N, given the sophistication of the scam's set-up. This didn't seem to be a lone actor or a 'chancer'. Instead, this looks to have been organised – using individuals posing as investment advisers and a credible-looking fake investment platform where she could see her supposed investments' performances.

Indeed, it's clear from researching N online that many people have fallen for this scam. And I've noted that before Mrs M decided to invest – when I'd have expected her to research N – there were mainly positive reviews online. Indeed, it wasn't until the beginning of April 2023, after Mrs M's first investment, that the FCA's warning about N was published.

On the other hand, I think there were times where she didn't act as I'd reasonably expect. Namely, Mrs M was encouraged to take out significant loans to fund her investment and to mislead firms in the process – about the purpose of the loans and the details surrounding the circumstances of the payments.

While I appreciate she wasn't an experienced investor, I'd still have expected her to have been alarmed by N's approach and to have questioned the investment's legitimacy. But I've not seen she did that here.

Taking this all into account, while I recognise how Mrs M was enticed by this sophisticated scam, I think there were some dubious and suspicious signs that I think she ought reasonably to have acted on. It follows that I've reduced the award to reflect her contributory negligence. Practically that means reducing her award across both cases by 34% and telling Revolut and Santander to refund 33% of her losses each.

My final decision

For the reason I've explained, I uphold Mrs M's complaint. Santander UK Plc must pay Mrs M:

- 33% of the total of her losses from the disputed payments as part of the scam. I understand this to be £19,800.00.
- 8% simple interest per year on this amount, from the date of the payments to the date of settlement (less any tax lawfully deductible).

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

Emma Szkolar
Ombudsman