

The complaint

Miss P complains that Santander UK Plc has declined to refund payments she made as part of a scam.

What happened

Miss P was looking to generate some extra income, and was introduced to an investment by the wife of a work colleague. This investment was with a company I will call T. Miss P says she checked T's website and online reviews, and saw the returns that others had received.

In order for funds to be deposited to her account with T, Miss P was required to send her funds to individual third parties, who in turn transferred the corresponding amounts to Miss P's investment account with T. Miss P made two payments via this method, for £915 in October 2022 and for £20,000 in November 2022.

In 2023 T transferred all its account holders' funds into its own cryptocurrency coin. Miss P says that this cryptocurrency coin is now worthless and that she's been the victim of a scam.

Via a professional representative, Miss P made a formal complaint to Santander and asked that they return her losses as she'd been the victim of a scam. Santander investigated the matter but declined to refund Miss P's losses, it said the payments had been made as 'peer-to-peer' payments with the funds then being moved on to the account at T, and so were not covered by the CRM Code. It also said it believed Miss P had lost her funds through a bad investment, not as a result of a scam, so it did not feel it had any liability for her loss, or that it could have prevented the loss.

Unhappy with this response, Miss P referred her complaint to our service.

An investigator looked into Miss P's complaint but didn't uphold it as they didn't feel that there was clear evidence to show that T was operating a scam, so did not consider that Santander either could have prevented Miss P's payments or should bear any responsibility for her loss.

Miss P's representative disagreed with the Investigator's findings, and provided a substantial response in their appeal. In summary, they believe the information they've provided demonstrates that all of T's entities were operating fraudulently, and that this would have come to light had Santander questioned Miss P about the payments she was making. They have also noted that scam warnings were published about some of T's corporate entities, as well as online articles which refer to some of T's entities being a scam. Lastly, they have argued that the nature of the payments Miss P made means that they should be considered under the CRM Code.

As no agreement could be reached this case has now been passed to me for review.

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.

Miss P's representatives have provided detailed submissions to our service in relation to this complaint. In keeping with our role as an informal dispute resolution service, I will focus here on the points I find to be material to the outcome of Miss P's complaint. This is not meant to be a courtesy to Miss P and I want to assure her I have considered everything that has been submitted carefully.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position at law is that a bank such as Santander is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Here it's not in dispute that the payments were authorised, so the starting position is that Santander isn't liable for the transactions.

There are, however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Santander also has a duty to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customer's accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

However, the expectation on a firm to intervene and warn customers of the risk of financial harm from fraud and scams will only reasonably have been engaged if there were sufficient grounds for suspecting the payee was a fraudster; meaning that Santander could have prevented the payments if concerns about the payee were discussed with Miss P.

I appreciate Miss P and her representatives strongly believe that T was operating fraudulently. But I'm not persuaded there's enough evidence to demonstrate this.

At the time Miss P made the disputed payments, both entities of T were regulated by a financial services regulator in overseas territories. Though the regulation of companies can vary between different jurisdictions, it does seem to be unlikely that a fraudulent company would seek to obtain the regulatory status from a financial regulator given the questions likely to be asked of it and the potential for any fraudulent behaviour to be exposed.

And while I accept that T may not have been regulated to offer its services in the UK at the time of Miss P's payments (it did hold passporting rights via one of its entities previously), and there certainly appear to have been poor business practices in some areas, this doesn't automatically mean that T was set up to defraud its customers.

Miss P's representatives have also referred to alerts published by the International Organization of Securities Commissions ("IOSCO") as an indication that T were acting fraudulently. But again, while this could be an indication of fraudulent behaviour, the warnings could also be seen as an indication of poor business practice.

Overall, with what I've seen, I'm not persuaded that T were acting fraudulently. I note what Miss P's representatives have said about the nature of the payments she made and why they believe this means that the CRM Code should apply here, but I am not convinced by those arguments. It seems clear to me from what Miss P has told us that she was making payments to a third party so they could exchange her funds into a different currency before those funds were then paid into Miss P's account at T. So, it seems to me that when Miss P transferred her funds to the third parties, it was still under her control, that control was only lost when the third party transferred the currency to T. And the CRM Code only applies to payments made in pounds sterling between accounts based in the UK. So, in the circumstances that apply to Miss P's payments, the CRM Code does not apply.

But in any case, given that I am satisfied T was not operating a scam, the type of payment made is not relevant, the CRM Code does not apply regardless of how the payment was made.

Outside the provisions of the CRM Code, Santander still ought to have been on the look-out for the possibility of fraud, and made reasonable enquiries when it identified transactions that could represent a risk of fraud. And it is arguable that Santander should have intervened in the £20,000 payment Miss P made, but I'm not satisfied that any intervention at that time would have prevented Miss P's loss here.

During intervention, I'd have perhaps expected Santander to have asked Miss P about the investment, how she discovered it and what checks she had made in order to verify the investment, and T, were genuine. But T was regulated, albeit by an overseas entity, at the time Miss P made her payments, and Miss P has said she had seen evidence from third parties of returns received on the investment.

And there was no publicly available information at the time, other than the alerts I have mentioned above, which would have indicated that T was operating a scam. So, had Santander asked Miss P to carry out further research prior to investing I don't think she'd have uncovered any information which would've led to her changing her mind. And I don't think this is an instance in which Santander should've refused Miss P's payment instruction as I'm not persuaded there was enough information available to them at the time of the payments to identify that T were operating a scam.

With all this in mind, while I have great sympathy for Miss P and acknowledge that she has lost a significant sum of money here, I'm not persuaded it would be fair for Santander to be held liable for her loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 16 October 2025.

**Sophie Mitchell
Ombudsman**