

## **The complaint**

Mr H complains that Santander UK Plc didn't reimburse him after he fell victim to an investment scam.

## **What happened**

Mr H first heard about this investment opportunity through family members. One of them was investing after hearing about it through their work and other members of his family were starting to join the opportunity too. I will refer to the investment scam firm as 'N'. Mr H first invested outside of his Santander account, as he jointly put a smaller amount of money in with his family. One of them then needed to access their funds, so they withdrew from that investment and shared the returns equally. Mr H then invested with his daughter through his Santander account.

In July 2021, Mr H received correspondence from N to say it was experiencing some problems with its accounts and regulation. And a short while after this Mr H realised that he'd been the victim of a scam. He reported this to Santander, but it said this was a civil matter between him and the director of N. In 2023, Santander revisited Mr H's case and in March 2024 it paid him 50% of his loss. Mr H complained again and said he was due the full sum, but Santander didn't agree.

Mr H came to our Service and our Investigator upheld his complaint in full and awarded £150 compensation for the delays in handling his claim. Santander disagreed with the case outcome but agreed to pay the compensation. A second Investigator reviewed the case and agreed it should be upheld, so Santander asked for an Ombudsman to reconsider it.

## **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 broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair or reasonable for the bank to reimburse the customer even though they authorised the payment. Of particular relevance here is the Contingent Reimbursement Model ("CRM") code (or "the Code"), so I've looked at whether Mr H is due reimbursement of the money he sent under this.

In this case, both parties accept Mr H has fallen victim to a scam and that his payments meet the Code's required definition of an APP scam.

Under the provisions of the Code, both the bank and its customer have obligations. If it can be shown that the customer has met their requisite level of care, then they will receive a full reimbursement. If the customer hasn't done this, then it is for the firm to show that it has met its obligations under the Code. One of these obligations is the provision of an Effective

Warning when the firm identifies an APP scam risk in a payment journey. The firm can apply an exception to reimbursement if their customer ignores an Effective Warning.

Santander accepted there was a scam risk it should've identified here and said that its warnings were not as strong as they could've been, so it accepted it didn't meet its obligations under the Code. Due to this it agreed to reimburse Mr H some of his loss. However, it said he failed to meet his obligations too, so he is *only* due 50% reimbursement, not full reimbursement.

R2(1)c of the Code sets out the test that applies to the consumer around whether or not they ought to have believed in the legitimacy of the transaction, part of their requisite level of care. More specifically it asks whether they made the payment without a reasonable basis for belief that:

- (i) the payee was the person the Customer was expecting to pay;*
- (ii) the payment was for genuine goods or services; and/or*
- (iii) the person or business with whom they transacted was legitimate.*

I've reviewed Mr H's testimony and the evidence he has from this scam to establish if he had a reasonable basis for belief.

Santander has raised that Mr H selected "paying for a service" and paid a personal account, rather than N itself. And it thinks this should have concerned him. I consider that it's not entirely wrong to consider paying into an investment opportunity paying for a service and Santander hasn't indicated or evidenced there was a more appropriate option at that time.

Looking at N's information on Companies House, Mr H has paid its director and the only person who is listed as being in control of the company. And he became aware of this investment through people close and known to him, who had made payments in the same way. So I'm persuaded he did pay the person he expected to – as he understood this is how the money was paid into N.

What's also in dispute in this case is whether Mr H reasonably ought to have believed N was offering a genuine investment and doing so legitimately. Based on the information we hold, I consider Mr H did have enough information to believe this at the time. I'll explain why.

Several members of Mr H's family had already invested by the time he decided to go ahead with this investment and they had seen the returns promised. And they were introduced by one family member, who was introduced by work colleagues. So this created a trusted network for N of people close to Mr H, which gave him confidence that it was legitimate.

I've considered the returns Mr H was expecting and I accept these were high and he expected to see them after a relatively short time. So I agree with Santander this should've made him wonder about whether the opportunity was genuine. But I've then also considered the evidence Mr H held that it was – he knew first hand that others had invested and received returns as expected. And, by the time Mr H had sent money from this account to invest, he'd also withdrawn returns himself. So I'm not persuaded this was enough to prevent him having a reasonable basis for belief.

Santander has also raised that Mr H did no checks of his own on the investment, so he did insufficient research. But as above, by the time he made the Santander payments he had previously paid in money and received returns. And, as our Investigator set out, further internet searches beyond the information Mr H already held from social media wouldn't have revealed anything concerning at that time. Mr H held some persuasive information on the opportunity and had already successfully received returns and he closely knew others who

seemed to be successfully investing through it. So I consider he did hold enough information on N to believe it was genuine and legitimate.

Ultimately, I'm persuaded that the information Mr H held gave him a reasonable basis for belief he was genuinely investing in a legitimate opportunity. I accept that with hindsight it's possible to find some fault in what happened, but I haven't seen enough evidence in this case to say that Mr H ought not to have had a reasonable basis for belief when he paid the funds. He fell victim to a sophisticated scam that developed through people introducing friends and family through their own trust in the venture. So I'm persuaded Mr H is due full reimbursement under the Code.

Our Investigator also awarded £150 in compensation to Mr H, which both parties agreed with. So I won't comment on this as it's not in dispute.

Santander set out to us that it refunded Mr H 50% of what he paid, without any compensatory interest. As this was due to him from when it wrongly declined the claim, I have included this below. The FCA published a warning about N in 2021, prior to Mr H reporting the scam to Santander and him asking to be reimbursed, so it could've used this information to assess his claim under the Code in 2021. However, if Santander did pay compensatory interest to Mr H at the time of reimbursing him the first 50% in 2024, he is not due this again.

### **Putting things right**

Santander UK Plc needs to:

- Reimburse Mr H the remaining 50% of his loss
- Pay Mr H 8% simple interest per annum on the full loss to the scam from the date Santander first declined his CRM claim in 2021 until the date of settlement (which will differ for each 50%)
- Pay Mr H £150 compensation

### **My final decision**

For the reasons set out above, I uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 June 2025.

Amy Osborne  
**Ombudsman**