

The complaint

Mr and Mrs P complain that Santander UK Plc (“Santander”) won’t refund payments they made as part of a scam.

What happened

The background to this complaint is well known by both parties, so I won’t repeat it in detail here.

But I understand it to be as follows. Mr and Mrs P were made aware of an investment opportunity by the partner of their son (the partner will be further referred to as ‘Person A’). The investment opportunity was with Person A’s cousin (further referred to as ‘Person B’).

Mr and Mrs P spoke to Person B’s immediate family, who’d already invested with them, and had received returns. Then, after their details were passed over by Person A, Person B got in touch with Mr and Mrs P directly and explained how the investment worked.

Satisfied with what they’d seen, Mr and Mrs P made the following payments as part of the investment:

Date	Activity	Amount
03/08/2021	Father payment to Person A	£12,000
04/08/2021	Faster payment to Person A	£5,000
12/08/2021	Faster payment to Person B	£6,000
06/10/2021	Faster payment to Person B	£20,000
01/11/2021	Faster payment to Person B	£15,000
01/11/2021	Faster payment to Person B	£15,000
03/12/2021	Faster payment to Person B	£10,000
		Total £73,000

In January 2022 Mr and Mrs P requested a withdrawal of their funds but were told this wasn’t available. Person B explained that Mr and Mrs P’s funds had been transferred to a different provider, and they were having trouble withdrawing the funds. Mr and Mrs P were then unable to communicate with Person B.

In March 2024 Mr and Mrs P contacted Santander to make them aware that they’d been the victims of a scam. Santander investigated the matter and, while they agreed they’d been scammed, felt Mr and Mrs P ought to have done more prior to the payments to ensure that the investment was legitimate. Final decision

Santander did, however, accept that they failed to provide effective warnings to Mr and Mrs P prior to releasing these payments. Because of this, Santander refunded 50% of Mr and Mrs P’s loss for the payments made to Person B. Unhappy with this response, Mr and Mrs P referred their complaint to our service.

An investigator looked into Mr and Mrs P's complaint and upheld it, in part. The investigator felt that Santander ought to have stepped in and discussed the first payment with Mr and Mrs P and that this intervention would've exposed the scam and prevented their loss.

But, the investigator went on to say that Mr and Mrs P should share responsibility for their loss as they ought to have carried out more checks prior to making the payments. Because of this, they felt that Santander should refund 50% of the payments to Person A in addition to the refund Santander had already paid.

Mr and Mrs P were dissatisfied with the investigator's outcome and felt they ought to receive a greater award, especially considering other victims they know have received a full refund from their banks and through our service.

Santander disagreed with the investigator's outcome on the basis that Mr and Mrs P had made numerous genuine payments to Person A previously and, therefore, there was no reason for them to have intervened prior to releasing the payments.

Having reviewed the case, I reached a different answer to the investigator. So, I issued a provisional decision and gave both parties the chance to provide any further evidence they wanted to be considered before I issued a final decision.

As the complaint couldn't be resolved by the investigator it was passed to me for a decision.

What I provisionally decided – and why

In my provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Firstly, I'd like to say how sorry I am to hear of the impact this situation has had on Mr and Mrs P. This was a particularly cruel scam and it has undoubtedly had a large impact on them and their family.

Mr and Mrs P 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 Mr and Mrs P's complaint. This is not meant to be a discourtesy to Mr and Mrs P, and I want to assure them I have considered everything they've submitted carefully.

In broad terms, the starting position at law is that a business 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. But, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

Of particular relevance to the question of what is fair and reasonable in this case is the Lending Standards Board's Contingent Reimbursement Model (the CRM Code), which Santander has signed up to.

Under the CRM Code the starting principle is that a business should reimburse a customer who is the victim of an authorised push payment (APP) scam, like Mr and Mrs P, except in limited circumstances. The circumstances where a business may choose not to reimburse

include (so far as they might be relevant to this complaint) where the business can establish that:

- the customer ignored an 'effective warning' by failing to take appropriate steps in response to that warning; or
- where in all the circumstances, the customer made the payment without a reasonable basis for believing that: the payee was the person the customer was expecting to pay, the payment was for genuine goods or services, and/or that the person or business with whom they transacted with was legitimate.

I have thought about how the CRM Code applies in the circumstances of the payments Mr and Mrs P made and in particular, whether Santander has established that it may choose not to reimburse them.

During the course of our investigation, Mr and Mrs P have clarified that of the £17,000 paid to Person A, £7,000 was funded by payments from family members. It has also been confirmed that these family members have received reimbursement of these payments directly from Person B and so Mr and Mrs P are not seeking to recover these funds. Therefore, as confirmed by Mr and Mrs P, their total loss resulting from the scam stands at £76,000.

Payments to Person A

Santander are a signatory of the CRM Code which requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: "another person for what they believed were legitimate purposes but which were in fact fraudulent."

To date, Mr and Mrs P have made no allegation that Person A may have been involved in the scam. Instead, Mr and Mrs P have confirmed that Person A received their funds in order to forward them to Person B.

Mr and Mrs P have not claimed that the funds were not used in the agreed manner or that Person A has acted fraudulently. As the purpose Mr and Mrs P made, and Person A received, the payments aligned, I can't say that the payments made to Person A are caught by the CRM Code.

I appreciate that the funds may have ultimately ended up with Person B and did form part of a scam, but, in this case, the Code requires the beneficiary of the payments to have received the payments for fraudulent purposes. As that's not the case, I do not consider these payments caught by the CRM Code.

That said, I've considered whether Santander could've, or should've, done any more at the time of the payments in order to prevent Mr and Mrs P's loss.

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.

Santander has confirmed that it didn't interact with Mr and Mrs P prior to releasing the first two payments. Having reviewed the account activity several months prior to these payments, I'm satisfied the first payment represents a significant change in the typical usage of the account, given the value of the payment. Because of this, I believe Santander ought to have contacted Mr and Mrs P and discussed the purpose of this payment prior to its release. So, I've thought about what Santander ought to have asked Mr and Mrs P during this interaction and whether this would've resulted in the prevention of the scam.

Mr and Mrs P have made no assertion that they were coached by Person A or Person B to lie to Santander, or any other bank, should they have intervened prior to releasing payments. So I'm satisfied they'd have been honest with any answers they'd have given during the interaction.

Had Santander asked about the purpose of the payment, it's likely Mr and Mrs P would've made them aware that the payments were being made as part of an investment. Following this, I think it would've been appropriate for Santander to have enquired about how Mr and Mrs P discovered the investment, what they understood it to be in, who it was with and whether they'd carried out any checks to confirm if this individual or business was legitimate.

Had Santander questioned Mr and Mrs P, as I believe they ought to have, it's likely they'd have discovered this investment opportunity was through their son's partner (Person A) and it was their family member that was carrying out the investment. It's also likely that they'd have advised that numerous family members of Person A had invested, and that they'd seen evidence of returns they were receiving.

I think that some features of the scam that would've been uncovered may have been of concern to Santander; namely that Person B was claiming to be an employee of a well-known investment company. That said, when considered against all the other information Mr and Mrs P would've likely supplied, as mentioned above, I don't think this is an instance in which Santander should've been concerned that Mr and Mrs P were at risk of financial harm from fraud, or ought to have refused Mr and Mrs P's payment instruction.

Further to this, I don't think that any questioning would've led to Mr and Mrs P deciding not to continue with the payment. It's clear from their testimony that they trusted Person A, and they were convinced this investment was genuine given that many of Person B's own family members had invested and were receiving returns.

Therefore, I believe it more likely than not Mr and Mrs P would've wanted to continue with the payment and that Santander acted reasonably in allowing the payment to leave the account.

Based on the above, I'm not satisfied that Santander could have, or should have, prevented the payments to Person A from taking place, nor do I believe that Mr and Mrs P wouldn't have continued with these payments following any interaction with Santander. As that's the case, I don't find Santander liable to reimburse Mr and Mrs P's loss for the first two payments.

Payments to Person B – payment three

When considering Mr and Mrs P's claim for reimbursement for the payments made to Person B, Santander accepted liability on the basis that they failed to provide effective warnings to Mr and Mrs P prior to releasing these payments. But, Santander has argued that they're not liable to provide a full refund to Mr and Mrs P under the CRM Code because they didn't have a reasonable basis for believing that the investment was genuine or that Person B was legitimate.

In this case, I'm satisfied that Mr and Mrs P had a reasonable basis for believing that the investment was legitimate at the time of the first payment to Person B. I say this because:

- Mr and Mrs P were introduced to the investment by a trusted party (Person A) who had evidence that they, themselves, had invested previously and had received returns.
- Mr and Mrs P spoke with numerous family members of Person A and Person B who also confirmed they'd invested with Person B and had been receiving returns in line with what they expected.

I accept that Mr and Mrs P may not have corroborated any information regarding Person B and the investment itself at this stage. But, given that the investment had been confirmed as legitimate by trusted individuals, I think it reasonable for Mr and Mrs P to have trusted their testimony. I also think that, given these individuals were family members of Person B, it was reasonable for Mr and Mrs P not to suspect that someone (i.e. Person B) would be scamming their own family.

Because of this, I believe Santander should refund Mr and Mrs P's entire loss for payment three under the CRM Code.

Payments to Person B – from payment four onwards

While I'm satisfied they had a reasonable basis for belief for payment three, I'm not satisfied that Mr and Mrs P had a reasonable basis for belief that the investment was legitimate from payment four onwards. I say this for the following reasons:

- Mr and Mrs P had received a statement from Person B detailing the performance of their investment. This statement appears to show that Mr and Mrs P's investment had increased by more than 600% in around two months. Even to an inexperienced investor, I believe this rate of return should've seemed too good to be true and ought to have led to Mr and Mrs P carrying out further checks to confirm the legitimacy of the investment and Person B.
- Mr and Mrs P had received no detailed evidence or information as to how the investment operated. Furthermore, they received no detailed formal documentation or contractual agreements which one would expect to receive as part of a legitimate investment.
- Mr and Mrs P had received no evidence that Person B worked for the investment company they claimed to prior to the payments.
- Having reviewed the investment statements supplied by Person B, they do not appear to give any detail on how the investment has performed so successfully. Furthermore, the documents aren't in a professional or corporate style which would be expected of a such a large and well-known investment company. They also do not appear to evidence that the investment existed.

I do appreciate Mr and Mrs P placed a lot of trust in Person B, given their close relationship. I also appreciate Mr and Mrs P were aware that numerous family members of Person A had invested, and they'd seen evidence of returns they were receiving. But, given the concerning features mentioned above, I think Mr and Mrs P ought to have carried out more, independent checks of the investment and Person B from payment four onwards.

So, I'm satisfied that Santander can rely on an exception to reimbursement from payment four onwards, under the CRM Code.

Did Santander meet its obligations under the CRM Code from payment four onwards?

Santander has already accepted that it didn't meet the obligations set for it under the CRM Code and refunded 50% of these payments. This is what I would've recommended in these circumstances and so I'm satisfied they've acted fairly in this respect.

Is there any other reason that Santander are liable to refund Mr and Mrs P from payment four onwards?

I believe payment four ought to have led to additional checks and conversations between Santander and Mr and Mrs P. I say this as the payment is for a significant sum, one which far exceeds any other genuine faster payment on the account for over a year prior to the date of the payment. Also, though it isn't the first payment to Person B, I wouldn't consider Person B an established payee at the time of payment four.

And so, I think the payment represents a significant deviation from the typical usage of Mr and Mrs P's account and ought to have caused concern to Santander that Mr and Mrs P may have been at risk of fraud or financial harm.

Given the significant deviation from the usual operation of the account, I think these questions should have explored the same questions as previously but, importantly, Santander would've been able to uncover further information regarding the performance of the investment up to the time of the payment.

Had Mr and Mrs P been asked about the payment, it's likely they'd have explained that this wasn't the first payment towards the investment. This would've led to a discussion about the performance of the investment and whether they'd received any returns. I believe it's at this stage that Santander would've identified the rate of return being concerning and unrealistic, requiring Mr and Mrs P to carry out further checks into the legitimacy of the investment prior to making further payments.

Mr and Mrs P have confirmed that, in February 2023, their son contacted the investment firm Person B claimed to work for when they began to have their own suspicions as to the legitimacy of the investment. The investment company confirmed that Person B was not employed by them.

I believe it more likely than not that, had Santander given an appropriate warning and guidance to Mr and Mrs P on how to protect themselves from fraud at the time of this payment then they'd have likely taken this action and would've discovered the scam. I'm therefore satisfied that Santander missed an opportunity to prevent the scam from payment four onwards.

Should Mr and Mrs P share responsibility for their loss with Santander from payment four onwards?

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. As stated above, I believe Santander could've prevented Mr and Mrs P's loss as the time of the fourth payment made as part of the scam.

But, for the same reasons given when explaining why I'm not satisfied that Mr and Mrs P had a reasonable basis for believing the investment was genuine under the CRM Code from payment four onwards, I'm therefore persuaded that both parties share liability for the loss from payment four onwards.

Calculating the interest award

As Santander missed an opportunity to prevent the scam from payment four onwards, I believe they should pay interest on the sums they are liable for from this point. Given that a refund has already been paid for the loss, Santander should pay interest from the date of the payments to the date of the reimbursement already provided.

Other considerations

I understand why Mr and Mrs P may feel that our service should award them a full refund, as they believe other victims that have received a full refund from their banks or our service. I'm sure Mr and Mrs P can appreciate that I cannot comment on other cases, but I should clarify that each case is decided based on its own merits; which is how I've reached my outcome on their complaint.

Lastly, I've considered whether Santander did what they should have when they were made aware that Mr and Mrs P had fallen victim to a scam. I can see that Santander contacted the relevant beneficiaries in an attempt to recover Mr and Mrs P's funds. Unfortunately, these attempts were unsuccessful as Mr and Mrs P's funds were no longer in the accounts.

Overall

Based on everything I've seen, I'm not satisfied that the payments to Person A are covered by the CRM Code or that Santander could have, or should have, prevented these payments at the time they were being made. I'm therefore not recommending Santander reimburse any of Mr and Mrs P's loss for these payments.

I am, however, satisfied that Santander ought to provide a full refund under the CRM Code for the first payment made to Person B - payment three.

But I believe Santander have fairly applied an exception under the CRM Code from payment four onwards and are not liable to provide any additional refund under the Code. That said, I'm satisfied that Santander ought to have prevented the scam from continuing as of 06 October 2021 and so they should pay an interest award on those payments.

Putting things right

To put things right Santander UK Plc should:

- Refund Mr and Mrs P's outstanding loss (£3,000) for the payment of £6,000 on 12 August 2021. Pay interest on that refund at 8% simple interest from the date the claim was declined under the CRM Code until the date of settlement.
- Pay interest for the payments to Person B from, and including, 06 October 2021 (at 8% simple interest) from the date the payments were made to the date of the reimbursement already provided.

My provisional decision

My provisional decision was that I intended to uphold this complaint, in part, against Santander UK Plc in the manner set out above.

Responses to my provisional decision

Santander responded to my provisional decision to confirm they agreed with my recommendations.

Mr and Mrs P responded in detail to explain why they disagreed with my provisional decision. In summary, they felt it unfair that Santander had failed to take any action in order to prevent the scam at the time it was taking but were not being asked to reimburse the entirety of the loss. They also explained that Santander ought to have identified them as being vulnerable at the time of the payments.

As I've received a response from both parties I'm going to proceed with issuing my final decision.

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.

Mr and Mrs P have explained why they disagree with the outcome I previously reached. But, having considered the additional testimony provided by them, I see no reason to reach a different answer than I did in my provisional decision.

I understand they disagree with my findings, and why, but the additional testimony and arguments put forward by Mr and Mrs P largely relate to points I've considered as part of my provisional decision. Having considered them once again, they do not persuade me to now reach a different outcome; and for the same reasons I previously explained.

I appreciate Mr and Mrs P's concerns regarding Santander's failure to take action at the time of the payments; and I agree that Santander didn't do enough to protect them. But, when considering this complaint and whether Santander ought to refund their loss I need to consider whether Mr and Mrs P should also bear any responsibility. For the reasons I explained in my provisional decision, I believe that Mr and Mrs P could've done more to protect themselves from the scam and so should bear some responsibility for their loss.

Mr and Mrs P have commented that they feel as though Santander should've identified them as being vulnerable to the scam. But, I don't believe the detail given relating to their personal circumstances meant that they were unable to protect themselves from the scam; therefore I don't believe they should be classed as vulnerable under the CRM Code.

In summary, I'm satisfied that the payments to Person A are not covered by the CRM Code or that Santander could've prevented these payments at the time they were being made.

I'm also satisfied that Santander ought to have provided a full refund under the CRM Code for the first payment made to Person B. But, I'm persuaded that Santander have fairly applied an exception under the CRM Code from payment four onwards and are not liable to provide any additional refund under the Code. That said, I'm persuaded that Santander ought to have prevented the scam from continuing as of 06 October 2021 and so they should pay an interest award on those payments.

Finally, I'd like to reiterate that I really do understand that this has come as a huge disappointment to them given the impact this ordeal has had, and continues to have, on them. But, for the reasons I've explained, I don't believe Santander are liable to reimburse their losses in full.

Putting things right

To put things right Santander UK Plc should:

- Refund Mr and Mrs P's outstanding loss (£3,000) for the payment of £6,000 on 12 August 2021. Pay interest on that refund at 8% simple interest from the date the claim was declined under the CRM Code until the date of settlement.
- Pay interest for the payments to Person B from, and including, 06 October 2021 (at 8% simple interest) from the date the payments were made to the date of the reimbursement already provided.

If Santander considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs P how much it's taken off. It should also give Mr and Mrs P a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint, in part, against Santander UK Plc. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mrs P to accept or reject my decision before 17 November 2025.

Billy Wyatt
Ombudsman