

## The complaint

Mr and Mrs P complain that Santander UK Plc – as the recipient bank, didn't do enough to prevent them losing money to an alleged scam.

## What happened

The background to the complaint is known to both parties and so I won't repeat it at length here.

In April 2017 Mr and Mrs P transferred £10,000 from their bank account with 'A' to an account held with Santander. The payment was to a company called 'F' for investment purposes. In 2022 F entered insolvency proceedings. Mr and Mrs P say, based on information that has since come to light, they believe that F were operating a fraudulent "*ponzi scheme*".

In short, Mr and Mrs P complained to Santander that it had on-boarded F "*without effective risk profiling, management and oversight*" and that both the opening and monitoring of the recipient account did not comply with know your customer (KYC), customer due diligence (CDD) and anti-money laundering (AML) obligations. Mr and Mrs P believed they suffered losses as a direct result of Santander's negligence and asked that it refund these and pay interest at 8% per annum for the time they've been without those funds. Mr and Mrs P also asked Santander to share the reasons why F's account was closed and to disclose what (if any) communications that has taken place between it and other regulated firms that had also provided payment services to F. Santander didn't uphold Mr and Mrs P's complaint, and said due to data protection regulations, it was unable to provide Mr and Mrs P with answers to the questions they'd raised about F's account.

Unhappy with this, Mr and Mrs P referred their complaint to our service. Our Investigator didn't think we could consider all of their complaint. And for what we could consider, she didn't recommend the complaint should be upheld. Mr and Mrs P disagreed and in response to our Investigators assessment raised the points listed below and asked that the matter be escalated for review by an Ombudsman.

- Mr and Mr P think there has been a misapplication of jurisdictional rules which has resulted in their concerns around Santander's possible failings under the Money Laundering Regulations 2007 (MLR 2007) not being addressed. They've highlighted public record red flags not being acted upon, Santander's general failure to identify and mitigate risks, appropriately monitor transactional activity and its lack of CDD / reviews being completed whilst the account was operational.
- Mr and Mrs P say their complaint is not limited to post-2019 authorised push payment (APP) fraud and should not be solely assessed under DISP 2.7.6R(2B). They think their complaint concerning Santander's regulatory failings in 2017 is broader and can be considered under "*DISP 2.7.6R(1)(a)*".
- They've raised concerns about Santander's response in 2023, citing it as being unfair, dismissive in tone, failing to acknowledge the substance of their complaint and lacking in transparency.

- Mr and Mrs P say Financial Conduct Authority (FCA) principles and fairness should apply. While they are not Santander's customer, they were directly harmed by its failure to prevent misuse of its infrastructure. So consideration ought to be given to whether Santander's conduct meets the FCA's principles for businesses – especially the duty to treat affected consumers fairly and to act with due skill and care.

I've issued a jurisdiction decision which explains that Mr and Mrs P are eligible complainants, and I can consider some aspects of their complaint against Santander. But my considerations will be limited to those which arise from matters relevant to their relationship with Santander under DISP 2.7.6R(2B), which requires that those act(s) or omission(s) took place on or after 31 January 2019. What this means is that I'm limited to only being able to consider how Santander responded in 2023, upon being informed by Mr and Mrs P of their belief that they'd transferred funds to an account held with Santander as the result of alleged fraud.

### **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.

Having done so, I've reached the same outcome as the Investigator, in so much as, I can't uphold the aspect of Mr and Mrs P's complaint I can consider. I know this will be disappointing for them, so I'll explain why.

Mr and Mrs P say they didn't know they had cause to complain about Santander's actions as the recipient bank before 2022 (when the liquidator released their report). They contacted Santander in 2023 notifying it that they'd likely been victims of fraud and had transferred funds to one of their customer's accounts. Generally, receipt of such notifications come from the remitting bank and upon receipt a recipient bank would carry out its own investigations before deciding if it was going to return any funds which may have remained in their customer's account. But irrespective of whether F were operating fraudulently, or how Santander received notification in relation to Mr and Mrs P's payment, here the recipient account was closed in 2017, so I'm satisfied there wasn't much more that it could reasonably have done to assist in the recovery of Mr and Mrs P's funds from the recipient account.

I know part of Mr and Mrs P's grievance is that Santander weren't forthcoming in answering their questions and sharing information with them about the actions they took in relation to F's account. I see how this can be perceived as a lack of transparency, and how this can lead to Mr and Mrs P's feeling that Santander's response to their complaint was unfair, dismissive in tone and failing to acknowledge the substance of their complaint. I can absolutely understand, having lost a significant sum through no fault of their own, Mr and Mrs P's desire for wanting answers and an explanation for what went wrong. And whilst I sympathise with the situation in which they find themselves, I must have regard for the point that Santander are bound by privacy laws and can't freely share information directly with Mr and Mrs P about someone else's account (even where Mr and Mrs P have transferred funds to the accountholder). I note Mr and Mrs P have referred to exceptions relating to fraud and legal claims in UK General Data Protection Regulations (GDPR), but I haven't seen anything to show that there was a lawful basis (such as an enactment or court order) which would allow Santander to share personal third-party data directly with Mr and Mrs P. So in these circumstances, I don't think Santander's response that it couldn't share with Mr and Mrs P information about the actions it took in relation to a third-party's account was unreasonable.

Ultimately, what Mr and Mrs P would like is for Santander to refund the losses they've suffered and compensate them for the time they've been without those funds. But I can only ask it to do so if I think it has failed in such a way that it can fairly and reasonably be concluded that its act or omission caused the loss or it is otherwise fair and reasonable to do so. In 2023, Santander did consider Mr and Mrs P's request for reimbursement. They reached the conclusion that they weren't responsible for their losses and communicated this to Mr and Mrs P in writing. Even if I were to think they ought to have gone further in their explanation or reasoning, it doesn't follow that it would be fair and reasonable to ask that it reimburse Mr and Mrs P's financial losses for not doing so. And as I've set out in my jurisdiction decision, I can't consider the matter of whether Santander did enough to prevent Mr and Mrs P's losses in 2017.

So in summary, there isn't a fair and reasonable basis upon which I can ask Santander to do more (within the context of my jurisdiction) to resolve this complaint.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 1 July 2025.

Sonal Matharu  
**Ombudsman**