

The complaint

Mr C complains that Santander UK Plc ('Santander') won't refund the money he says was lost as the result of a scam.

What happened

The background to this complaint isn't in dispute, so I won't go into detail. But, in summary, this is my understanding of the complaint.

Mr C was introduced to an investment with a company I'll refer to as H. H was a property developer who offered loan notes.

Mr C made two payments from his Santander account on 4 July 2019. The first was for £10,000 and the second was for £20,000.

In January 2022, H went into administration.

Through a professional representative, Mr C raised a fraud claim with Santander. Santander declined to refund Mr C saying he has a civil dispute with H.

Mr C wasn't happy with Santander's response, so he brought a complaint to our service.

An investigator looked into Mr C's complaint but didn't uphold it. The investigator wasn't satisfied that Mr C was the victim of an APP scam as defined by the Contingent Reimbursement Model Code (CRM Code).

Mr C disagreed with the investigator's opinion and asked for an ombudsman to review his case.

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 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 in law is that Santander are expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations 2017 (PSR's).

Is Mr C entitled to a refund under the CRM Code?

Santander are a signatory of the CRM Code, which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams, in all but a limited

number of circumstances. But the CRM Code defines what is considered an APP scam as “where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent”.

In order to decide whether the circumstances under which Mr C made the payments, meets the definition of an APP scam, I need to consider:

- The purpose of the payments and whether Mr C thought this purpose was legitimate.
- The purpose the recipient (H) had in mind at the time of the payments and whether this was broadly in line with what Mr C understood the purpose to be.
- And, if I decide there was a significant difference in these purposes, whether I’m satisfied that was as a result of dishonest deception.

Mr C was making payments to invest with H, who were a property developer. I haven’t seen anything that would suggest that Mr C didn’t think this was legitimate.

So, I’ve gone on to consider what purpose H had in mind and whether it was in line with what Mr C thought.

In reaching an answer on what purpose H had in mind, I’ve considered the wider circumstances surrounding H, its directors and any linked businesses. The key information to this case is:

- H completed on three separate developments. It also had other developments it was working on, which it sold to developers after experiencing financial difficulties. This persuades me that H were operating as a genuine business at the time Mr C made his payments.
- H may have misrepresented certain information, filed unaudited and late accounts, and paid high commissions to introducers, but I haven’t seen any evidence to say this was done with the intention of scamming investors.
- Mr C has provided numerous reasons why he believes H were operating a scam, including allegations that investors’ funds weren’t used for the intended purpose. However, he hasn’t provided evidence that proves those allegations. We’ve received evidence from the liquidator, and this doesn’t prove that H were operating a scam
- A failed business or financial mismanagement of a business, in and of itself, isn’t sufficient to establish that the business, or those operating it, had a different purpose for the funds when they were obtained from the consumer.

Taking all these points into consideration as a whole, I’m not satisfied that there is sufficient evidence to prove Mr C’s funds weren’t used in the agreed manner by H or that the purpose H had in mind was different to Mr C’s. On that basis, I’m not satisfied that Mr C’s payments meet the definition of an APP scam and aren’t covered by the CRM Code.

If material new evidence comes to light at a later date, for example from the police or liquidator, which shows Mr C’s funds weren’t used for the intended purpose, Mr C can ask Santander to reconsider his claim.

Is there any other reason I could ask Santander to refund Mr C?

At the time the payments were made, Santander should fairly and reasonably have been monitoring accounts and any payments made or received to counter various risks, including

preventing fraud and scams. Also, I'd expect Santander to have systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). And where a potential risk of financial harm is identified, to have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

However, even if I was satisfied that Santander should've provided a better intervention when Mr C made his payments, that doesn't mean that he is entitled a refund. I have to consider what is more likely than not to have happened as a result of that intervention.

Based on the evidence, I'm not satisfied that Santander should've been concerned or that they could reasonably have refused to follow Mr C's payment instructions. I say this because all of the information available when Mr C made his payments, suggested that H was a legitimate property developer. I'm not satisfied that any questions Santander should've asked would've identified concerning information, especially as Mr C was introduced to the investment by a financial advisor/broker.

So, I'm not satisfied that I can fairly say intervention by Santander should've prevented Mr C's loss.

I'm really sorry that Mr C has lost a significant amount of money. But, having carefully considered all of the evidence, I'm not satisfied that I can fairly hold Santander liable or ask them to refund him.

My final decision

My final decision is that I don't uphold this complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 October 2025.

Lisa Lowe
Ombudsman