

## **The complaint**

Miss K complains about the actions of Santander UK Plc when she lost money to a scam.

Miss K is being supported in making the complaint by a representative, but for ease I'll only refer to Miss K.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Towards the end of 2023 Miss K was approached by a friend on social media about an investment opportunity in a wholesale merchant. Miss K decided to do some research into the opportunity which included travelling abroad to an event the merchant was sponsoring where she met owners, other investors and saw a well-known celebrity. Miss K decided to start investing and sent around £112,106 from her Santander account to another account in her name she held with an Electronic Money Institute (EMI). From there her funds were sent to her friend and then to be invested with the merchant.

Around July 2024 Miss K says she started to have doubts about the investment and asked for £35,000 to be returned to her. In total she was given £24,985 back from the investment. But she was then asked to invest more money and offered a role with the merchant. She asked if she could have the remaining investment returned to her but never received any further funds which is when she realised she had been scammed. So, Miss K raised a claim with Santander who said it hadn't done anything wrong here so wouldn't be offering a refund. Unhappy with that response Miss K brought her complaint to this service.

Our Investigator didn't think the complaint should be upheld. She didn't think it was more likely than not the scam would've been uncovered in the circumstances.

Miss K disagreed and asked for an Ombudsman's review. She said she was promised unrealistic returns with the money being sent to a personal account, there was no contract and the opportunity discovered on social media.

## **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 decided not to uphold it, and for largely the same reasons as our Investigator. I know this is not the answer Miss K was hoping for and so this will come as a disappointment. I'm really sorry to hear about the situation she's found herself in, and I can understand why she'd want to do all she can to recover the money she lost. But I need to decide whether Santander can fairly and reasonably be held responsible for her loss. Overall, I've decided that it can't be. I'll explain why.

But first, I would like to say at the outset that I have considered this case on its own merits and have summarised it in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Santander could've prevented Miss K's loss.

The transactions Miss K made towards the investment were authorised payments. So, Miss K is presumed liable for the loss in the first instance. However, I consider that as a matter of good industry practice at the time (and now) that a bank, such as Santander, ought to have taken steps to intervene prior to processing a payment instruction where it had grounds to suspect a payment might be connected to a fraud or a scam. Any such intervention should've been in proportion to the level of risk perceived.

The question then arises whether Santander ought reasonably to have held such suspicions or concerns in relation to Miss K's payments - and if so, what might've been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if Santander acted fairly and reasonably in its dealings with Miss K when she made the payments. Specifically, whether it should've done more than it did before processing them – and if it had, would that have made a difference. I also need to decide if Santander could've reasonably recovered the lost funds. I agree with both Miss K and our Investigator that there was justification here for an intervention by Santander prior to processing all the payments she made – given their size and destination.

But for me to find it fair and reasonable that Santander should refund Miss K requires more than a finding that Santander ought to have intervened.

I would need to find not only that Santander failed to intervene where it ought reasonably to have done so - but crucially I'd need to find that but for this failure the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by Santander wouldn't have revealed the payments were part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented them from being made. In thinking about this, I've considered what a proportionate intervention by Santander at the relevant times would've constituted, and then what I think the result of such an intervention would most likely have been.

To reiterate, Santander's primary obligation was to carry out Miss K's instructions without delay. It wasn't to concern itself with the wisdom or risks of her payment decisions.

In particular, Santander didn't have any specific obligation to step in when it received a payment instruction to protect its customers from potentially risky investments. The investment wasn't being recommended by Santander nor was it endorsing it. Santander's role was to make the payments that Miss K had told it to make. Miss K had already decided on that investment. And I find that Santander couldn't have considered the suitability or unsuitability of a third-party investment without itself assessing Miss K's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from Miss K (which there wasn't here) would have gone far beyond the scope of what I could reasonably expect of Santander in any proportionate response to a correctly authorised payment instruction from its customers.

That said, I think it would have been proportionate here for Santander, as a matter of good industry practice, to have taken steps to establish more information about Miss K's payments. What matters here is what those steps might be expected to have uncovered at the time.

While there may now be significant concerns about the operation of the scam merchant, and the legitimacy of the investment, I must consider what Santander could reasonably have established during a proportionate enquiry to Miss K about her payments at the time they were being made. I cannot apply the benefit of hindsight to this finding.

I'd expect Santander to ask Miss K probing questions about the payment and why she was making it. I think Miss K would've more likely than not said the payment was being sent to an account in her name. If Santander had probed into the payment journey, I think Miss K would've explained that it was ultimately for an investment in a merchant and how she came to find out about the opportunity. In her submission to this service Miss K has mentioned the role of a friend in the investment. So, I think – on balance - Miss K would've told Santander that she had found out about the investment from a friend and seen adverts on social media. If Santander had asked further questions about the research Miss K had completed, she likely would've told them about the trip abroad and meeting the people involved with the merchant. There were no warnings for Santander to uncover about the merchant and Miss K would've reasonably been aware of the risks involved in making such an investment and that this wasn't regulated.

Santander would've been concerned about the investment being advertised online, that there was no contract and the high returns promised. But I don't think in all the circumstances here Santander would've been able to uncover and explain to Miss K that this was definitely a scam. As a result, I think Santander would've provided investment scam warnings to Miss K over the phone and told her to go and do more research into the opportunity. But because she had been contacted about the investment on social media by a friend who she described as knowing for years and someone who she trusted, the lengths the scammers went through to engage Miss K, such as the trips abroad, meeting those involved in running the merchant (she had met the owner twice) and meeting others who had invested as well, I don't think an investment scam warning or further research would've more likely than not resonated with Miss K at the time. I think she would've been satisfied that this was a genuine but high-risk investment opportunity based upon the people she had met at the events she attended and the conversations she has said she had with the scammers. I note she also borrowed money from family and friends because of her belief that this was a genuine opportunity.

Miss K has said Santander would've uncovered the name of the owner and seen that there were issues with him being involved in fraud before. But I wouldn't expect the bank to conduct that level of investigation into the owner of the merchant and the investment opportunity at the time. Nor do I feel this was a situation where Santander missed the opportunity to invoke the Banking Protocol here. I think Santander could've reasonably told Miss K to make sure she was satisfied she had done her research into the merchant and the opportunity given that she hadn't been given a contract. But I don't think this would've led to a different outcome of Miss K deciding not to invest. I think it's more likely than not she was happy with the recommendation coming from a friend she trusted, the research she'd done and the fact she had travelled abroad to meet those involved with the merchant. She said she saw the merchant advertising at the event she attended (which had a well-known celebrity present as well) which would've added a layer of legitimacy to the opportunity she was presented with.

So, because I'm not satisfied Santander could've been certain Miss K was being scammed, I think it most likely would've provided generic warnings to her about investment scams and that she might not get her money back. But for the reasons I've explained, I don't think these would've resonated with Miss K at the time or stopped her from sending the money.

### *Recovery*

Because the money was sent to the EMI before being forwarded to the scam, there were no funds for Santander to recover. So, it didn't treat Miss K unfairly by not attempting to recover any of her money here.

So, I'm not going to ask Santander to do anything further here.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 25 November 2025.

Mark Dobson  
**Ombudsman**