

The complaint

Mr H complains that Santander UK Plc won't refund payments he made as a result of a scam.

What happened

Mr H was the victim of a scam involving the following payments from his Santander account:

Date	Description	Amount
31 May 2023	Faster Payment to Crypto.com	£50.00
31 May 2023	Faster Payment to Crypto.com	£365.00
9 June 2023	Faster Payment to Crypto.com	£1,000.00
9 June 2023	Faster Payment to Crypto.com	£150.00
11 June 2023	Faster Payment to Crypto.com	£12,600.00

In summary, Mr H has explained he decided to make investments with a company which I'll refer to as M, which purported to offer fixed returns if he invested a certain amount over a certain period of time. It appears this was based on M offering 'cloud mining' services, where Mr H would be paying to use their services to mine crypto, and in return receive a profit.

To fund M, Mr H made payments to crypto platforms, where the money was exchanged and sent onwards to a wallet connected to M.

As well as making these payments to Crypto.com from his Santander account, Mr H also made several other payments to other cryptocurrency exchanges from two other accounts as part of the scam.

On 23 June 2023, M contacted Mr H to say that they'd detected his account was abnormal, and that he's need to pay more as part of his promotional package or he wouldn't be able to make a withdrawal. It appears that Mr H was also contacted about taxes he'd need to pay and later, that his account was operating illegally and he'd need to pay a fee to avoid his account being frozen.

Mr H explained that he felt pressured to act to maintain access to his account, but, upon the last request, he looked into the conditions for freezing an account and became suspicious. Shortly afterwards, M's operations shut down and Mr H realised he'd been scammed.

Santander intervened when he made some of the payments, as did his other bank HSBC. In summary:

- Santander provided written warnings when he attempted to make a payment. These explained that if someone was helping him, it's typically a scam – and to be cautious with unregulated companies and promises of high rewards for low risk or offers that sound too good to be true.
- Santander also spoke with Santander about a payment on 11 June 2023 over the phone. Mr H confirmed it was going to an account for an investment, and he chooses

what to invest in by himself. He said he'd only the official apps, and he'd not downloaded any third party apps.

- Mr H was questioned by HSBC about his attempted payments to a crypto platform on 19 and 23 June 2023. They asked him about how he'd checked who he was paying and whether he'd control of his wallet, as well as whether there was anyone else involved. They also asked him whether he'd given remote access to anyone and whether he'd been able to withdraw. Mr H explained he'd be using the payments to trade by himself using his own research – in crypto and stocks and shares. He confirmed there wasn't anyone else involved, he'd opened the wallet by himself, he'd not used any remote access software, and he was confident who he was paying – he'd used them before, and he'd withdrawn money. And that he'd not been asked to pay to withdraw his money. During the call, HSBC mentioned some of the features of investment scams (among other scams) – like remote access, control of someone's wallet, and difficulties making a withdrawal. And at the end of its last call with Mr H, it said it was still concerned, but Mr H chose to go ahead.

Following the scam, Mr H raised a complaint to Santander – in summary, he said it failed to prevent his losses from the scam. Santander didn't uphold it – it said the payments went to an account in his own name and control with Crypto.com, so he would need to raise his losses with them.

Unhappy with its response, Mr H brought his concerns to us to investigate. To be clear, while Mr H has also raised complaints about this matter with his other banks, this decision solely investigates Santander's liability for what happened.

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 our investigator for these reasons:

- The starting position in law is that Santander has a duty to make the payments Mr H tells it to. And that Mr H is responsible for payments he made.
- But, as supported by the terms of the account, that doesn't preclude Santander from making fraud checks before making a payment. And, taking into account regulatory expectations and good industry practice, I'm satisfied that it should fairly and reasonably have done this in some circumstances.
- Here, Santander clearly had some concerns with the payments, as they provided written warnings and spoke to him over the phone. While this laid out its concerns with investment scams and went to some lengths to find out the circumstances of the payments, it's arguable Santander's conversation with Mr H could've been better. For example, the questions asked were generally closed or leading and there wasn't much context given.
- But, it's not enough for me to determine that Santander could've done more here. I must also be persuaded that it was this error, in not carrying out the intervention I'd have reasonably expected, that caused his losses.
- Of course, I can't say for certain how Mr H would've responded, had Santander asked open and probing questions and provided appropriate warnings about the payments. But civil disputes like these are only ever decided on the balance of

probabilities. In other words, what I think is more likely than not to have happened.

- Having considered the evidence carefully, I'm not persuaded that a better intervention by Santander would've changed Mr H's mind about making these payments as part of the scam. I've noted:
 - Having reviewed his interaction with Santander, Mr H wasn't forthcoming about how he intended to use this money to ultimately invest with M – instead, they were given generic answers that he was investing by himself in crypto. And I note this was the case with HSBC's interventions too, where the conversations were longer and more detailed. So even if Santander probed further, I'm not convinced that Mr M would've changed his stance and told Santander about M's involvement.
 - In saying that, I've noted Mr H's point that we should only consider Santander's interactions with him in his complaint about Santander. But it's my role as an impartial decision maker to determine what evidence is relevant to reaching a fair outcome. Here, I'm satisfied it's reasonable to consider how he responded to other banks to determine how he'd have likely responded to Santander.
 - Despite the likelihood that Mr H wouldn't have been forthcoming, I'd also have expected Santander to have provided context around its questions and to explain, in clear and understandable terms, what a typical investment scam looked like. So I've considered whether this could've unravelled the scam too, even if Santander's questions didn't.
 - But overall, I don't think that the scam Mr H fell victim to had many of the hallmarks of a typical investment scam. For example, there wasn't an account manager or broker, he'd not used remote access, and he'd set up his wallet himself. It follows that, even if Santander did provide adequate context, I'm not convinced it would've resonated with Mr H.
 - That's not to say there weren't any areas where the scams overlap – the returns promised arguably looked 'too good to be true' and you could say Mr H was being asked to pay sums to withdraw what he made. But I'm not persuaded that these aspects alone were enough to make Mr H realise that this was a scam, given that lots of the other features didn't apply to him. Indeed, I've noted that Santander and HSBC did mention these aspects in its dealings with him, yet it didn't change Mr H's mind about continuing with the payments.
 - I appreciate Mr H might feel that Santander ought to have warned him about the type of scam he fell victim to as well. But I can't expect it to warn him about every permutation and variation of investment scams – to do so, would likely render the warnings ineffective and disproportionate. Instead, I think it's reasonable to have expected Santander to have focused on the key hallmarks of scams involving crypto, which, at the time, commonly had the features I've described above.
- Taking this all into account, I find it more likely that, had Santander carried out a better intervention, he would've continued to make these payments.
- To be clear, this isn't to blame Mr H for falling for the scam. He was clearly the victim of an organised and sophisticated fraud. But for me to tell Santander to refund these

losses, I must find that he lost out because of Santander's mistake. And here, even if Santander acted as it ought to have done, I think the scam would've continued regardless.

- I realise this will be upsetting news for Mr H. But for the reasons I've explained, I don't find it's fair to tell Santander to put things right here.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 July 2025.

Emma Szkolar
Ombudsman