

## **The complaint**

Mr and Mrs G say Santander UK Plc ('Santander'), hasn't treated them fairly following an 'authorised push payment' ('APP') investment scam they fell victim to. They say Santander should reimburse them for the money they lost along with compensatory interest as they have been unfairly deprived of their funds.

## **What happened**

As both parties are familiar with the circumstances of this complaint, I've summarised them briefly below.

Mr and Mrs G fell victim to an investment scam carried out by someone whom I'll call 'Mr F'. Mr and Mrs G made two payments totalling £40,000 in November 2021 from their account with Santander to Mr F as part of the scam. And Mr and Mrs G also made payments towards the scam from an account they held with another banking provider.

Mr F was subsequently arrested in November 2021, with law enforcement and the Financial Conduct Authority ('FCA') carrying out an investigation into the actions and practices of Mr F.

Mr and Mrs G reported the matter to Santander shortly after, to try and recover their funds or be reimbursed their loss under the Lending Standards Board ('LSB') 'Contingent Reimbursement Model' ('CRM Code') - which was a voluntary code that Santander was a signatory of. The CRM Code required firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances.

Santander wrote out to Mr and Mrs G in November 2021 acknowledging their claim and explaining that it will consider the matter under the CRM Code and provide an update within 15 days.

In December 2021, the FCA advised victims that the court had granted a restraint order under the provisions of the Proceeds of Crime Act 2002. The purpose of the restraint order was to preserve available assets so that victims could be compensated by the court in the event Mr F was convicted.

Mr and Mrs G made a formal complaint to Santander in February 2022, as they were unhappy they hadn't heard anything. Santander wrote out to Mr and Mrs G in March 2022 advising that due to the nature and complexity of their complaint, it was still in the process of gathering and assessing all the relevant information. And it advised Mr and Mrs G that they could refer the matter to our service.

In December 2023, following the investigation by law enforcement and the FCA, the FCA brought charges against Mr F for committing fraud by false representation and for carrying out activity without authorisation.

Mr and Mrs G referred their complaint about Santander to this service around the same time, as they considered the investigation into Mr F was complete and they ought to have been refunded by Santander, under the CRM Code, as a result.

Mr F pleaded guilty to fraud and, in May 2024, was sentenced to six years in prison. A confiscation order against Mr F was granted by the court (in January 2025). And it was ordered that the funds subject to the confiscation order be paid (disbursed) in compensation to the victims of Mr F.

The FCA wrote out to all victims in October 2024 about the impending disbursement process. It advised the most practical approach, whereby victims whose banks were signed up to the CRM Code, would be for the confiscation and compensation proceedings to happen first. This would enable victims to receive payments from Mr F's confiscation order. And the FCA advised banks would then be required to make up the deficit for each victim after, by reimbursing their customers under the CRM Code.

Santander has said it will reimburse Mr and Mrs G in full for their losses under the CRM Code, once the disbursement process has been completed.

Mr and Mrs G remain of the opinion they have been, and still are being, treated unfairly by Santander.

In summary, Mr and Mrs G say:

- Santander hasn't followed the provisions of the CRM Code that it signed up to. And it ought to have applied the CRM Code, and its applicable timescales, to their fraud claim back in November 2021 when they reported the scam. So, Mr and Mrs G consider Santander should have deemed they were a victim of fraud and reimbursed them under the CRM Code back in November / December 2021.
- there were no provisions within the CRM Code at that time that allowed for Santander to delay providing its answer to their fraud claim due to any external investigation being undertaken by other statutory bodies.
- the LSB advised them that Santander, upon the conclusion of the investigation and court proceedings, also ought to have made a decision to refund them within 15 days from that point. But Santander still has not reimbursed them.
- there are no provisions within the CRM Code that meant Santander needed to wait for any proceeds of crime or the disbursement process to be completed in order to reimburse them under the CRM Code.
- other victims have already been refunded.
- by not adhering to the CRM Code and its timescales, and with the process of the investigation and court proceedings against Mr F being drawn out, they are out of pocket as a result. Mr and Mrs G argue that they have not had their funds when they should have, meaning those funds haven't been earning the potential interest they could have.
- Santander should reimburse them in full and pay them additional compensation for being deprived of their funds as it did not adhere to the CRM Code.

Our Investigator considered the ongoing external factors of the FCA involvement in which the court granted the confiscation order of Mr F's funds and the disbursement process currently being carried out in relation to those funds. After doing so, they proposed to close down Mr and Mrs G's complaint. They explained that once the disbursement process was completed and Mr and Mrs G received any funds from this process, then Santander – at that point – would pay their remaining loss. So, they considered our service had limited ability to help Mr and Mrs G any further in regard to obtaining the refund of their funds. And as the process was already being undertaken, matters would resolve themselves in due course.

The Investigator also explained that Mr and Mrs G could have the matter referred for an ombudsman's decision as part of our service's two stage process – but that it wouldn't likely be of any benefit in this instance given what had happened in the circumstances of this complaint and that Mr and Mrs G will be receiving their funds back.

Mr and Mrs G have asked that their complaint isn't closed while the disbursement process is ongoing, as they haven't been refunded and don't consider the complaint to be resolved. Mr and Mrs G remain of the opinion that Santander acted outside of the provisions of the CRM Code, and it should have accepted their fraud claim within the applicable timescales set out by the CRM Code. As it hasn't, they consider they should be awarded compensatory interest for being deprived of their funds for so long.

Our Investigator responded to Mr and Mrs G's complaint points that Santander should have accepted their fraud claim under the CRM Code and as a result Santander should therefore pay additional compensatory interest. In short, the Investigator partially upheld their complaint. They agreed that Santander could have accepted their fraud claim sooner than it did, and that there were no provisions within the CRM Code to delay giving an outcome. But they were also of the opinion that despite any failings by Santander in this regard – it wouldn't have been able to refund Mr and Mrs G any sooner as their loss wasn't known at the time. They considered Santander should reimburse Mr and Mrs G once the disbursement process has been completed, and their loss was known. And the Investigator didn't think it was fair for Santander to pay additional compensatory interest when it didn't know what amount it was required to reimburse Mr and Mrs G. The Investigator concluded that once the disbursement process had been concluded and Mr and Mrs G's loss was known, Santander should reimburse them for their remaining loss, and it should do so within 28 days of knowing what it is required to pay them. And if Santander takes longer than 28 days to do so – then it should pay additional compensatory interest at 8% simple interest per annum on the amount it owes from that point (day 29) onwards.

Mr and Mrs G responded, remaining of the opinion that they had been treated unfairly by Santander.

Whilst Mr and Mrs G want their case to remain open until matters are resolved to their satisfaction, we – as a service – can't keep complaints open indefinitely. Our powers allow us to progress and answer a complaint or proceed to issue a decision on a complaint, whereby we think we are in a position to do so, and it is fair and reasonable to do so in the circumstances.

So, Mr and Mrs G's complaint has therefore been passed to me to decide.

### **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 have been good industry practice at the time.

In considering this complaint, I have also taken on board comments Mr and Mrs G have provided on other complaints they have (or are representing on) that are with our service and that are in relation to the same scam that they fell victim to. Broadly summarised, those comments set out why reimbursement should have occurred sooner and that the failure to do so has meant they are out of pocket as a result.

I'm very aware that I've summarised this complaint and the responses briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here – which is to determine whether Santander has acted fairly in its dealings with Mr and Mrs G as a result of the scam they fell victim to. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair and reasonable outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.

This has been a lengthy process for Mr and Mrs G. They were victims of the scam orchestrated by Mr F, then there was the investigation which resulted in charges being brought, the subsequent court proceedings, hearing and sentencing of Mr F, through to the granting of the confiscation order against Mr F by the court and undertaking of the disbursement process. So, from being scammed, through to trying to recover their losses, it has been an ordeal for Mr and Mrs G involving a significant amount of money which has had a huge impact on their life.

Having thought carefully about Santander's actions, I'm upholding Mr and Mrs G's complaint, in part. I'm satisfied Mr and Mrs G were the victims of a scam, and that they should be reimbursed, but I'm also satisfied Santander should only reimburse Mr and Mrs G once the disbursement process has been finalised and their loss is known. And I'm not satisfied Santander are required to pay any additional compensatory interest to Mr and Mrs G as a result of the delays. I consider it would be unfair to do so as Mr and Mrs G's loss wasn't known to Santander at the time and still isn't, meaning it isn't in a position to know what amount it should reimburse Mr and Mrs G.

I appreciate Mr and Mrs G will be frustrated by my decision, but I'll explain my reasons why.

Mr and Mrs G are correct in saying the CRM Code is relevant. Santander were signed up to the CRM Code and it required firms to reimburse customers who had been the victims of APP scams in all but a limited number of circumstances. And the CRM Code set out the timescales that firms should adhere to when assessing fraud claims. So, I can certainly understand Mr and Mrs G's strength of feelings here and can see why they consider they should have already had their claim reviewed and be reimbursed, and that this should have happened when they reported the scam to Santander.

And I agree and acknowledge that while there was an ongoing investigation by law enforcement and the FCA into the actions of Mr F, there was sufficient evidence to support Mr and Mrs G's assertions they had clearly fallen victim to the scam orchestrated by Mr F, the most damning of which was Mr F's confession to what he had done. So, Santander, to my mind, could have accepted Mr and Mrs G's fraud claim far sooner than it did.

And I also agree that at the time Mr and Mrs G raised their fraud claim with Santander, there were no provisions within the CRM Code that allowed for it to delay its answering of Mr and Mrs G's fraud claim due to any ongoing investigation by a third-party statutory body (such as the police or the FCA). These provisions came into effect within the CRM Code shortly after – in April 2022, and they were implemented as a result of the type of scam Mr and Mrs G had fallen victim to and similar other large-scale scams where there were other statutory bodies carrying out an investigation into an alleged scam.

But, and importantly, the test I have to apply here is whether it is fair and reasonable to conclude that any failings by Santander in it not accepting Mr and Mrs G's fraud claim under the CRM Code, meant it was at fault for not reimbursing Mr and Mrs G their funds sooner and it has therefore caused Mr and Mrs G to be deprived of those funds as a result.

Mr and Mrs G consider Santander is at fault as it should have reimbursed them under the CRM Code, and it has therefore deprived them of those funds. They argue additional compensatory interest should be awarded to them at a rate of 8% simple interest per year on the funds they have been deprived of from the date Santander should have accepted their claim under the CRM Code (considering the applicable timescales) up until they are reimbursed.

I disagree. While I accept Santander could have concluded the *outcome* of their fraud claim under the CRM Code sooner than it did, by accepting Mr and Mrs G had been the victim of a scam, I don't think any failings by Santander in this regard meant it would have been in a position to reimburse Mr and Mrs G for their *actual* loss at that time.

I say this because it quickly became apparent that there were substantial losses, widespread victims and complex account activity at play. Some victims received returns that meant they weren't at a financial loss and some profited – such is the nature of a Ponzi scheme / trading scam. Also, some victims invested on behalf of others, so their actual loss wasn't immediately apparent and needed to be established or further broken down. And some victims invested not through monetary means but via other assets. The flow of funds in and out and how much went to whom or how much some victims received in supposed returns, meant establishing victims' losses was complex. And this led to the FCA reaching out to victims and working with the relevant banking providers to establish each victim's actual loss. It is only because of this widespread formal undertaking that victims' actual losses are being established. And this was required for it to be known what amount each victim will receive because of a disbursement under the confiscation and compensation order and what amount might, therefore, be reimbursed under the CRM Code.

I am unsure whether Mr and Mrs G's losses have been confirmed through the disbursement process to date. Whilst I appreciate Mr and Mrs G may consider their loss is known and the amount is what they have reported to Santander, I'm not persuaded – given the complexities here – the Santander would have definitively known what the loss was at time of the claim. And I'm mindful that and it wouldn't be fair or reasonable for a business to pay more than is required. I also don't think it is unfair for Santander to await confirmation of the loss through the disbursement process.

I have thought about whether it would be fair for Santander to reimburse Mr and Mrs G's losses as soon as they have been confirmed. However, the confiscation and compensation order has now already been granted in court. Given that it is known there are frozen assets that are to be realised for disbursement to victims, I'm not persuaded it is unfair for that process to take place before Santander made any reimbursement; any amount Mr and Mrs G would be awarded through that process would reduce the amount Santander would need to reimburse under the CRM Code.

It is possible that Santander could have taken an assignment of any rights that Mr and Mrs G had to any funds disbursed as a result of the compensation order. That *might* result in Mr and Mrs G receiving reimbursement sooner, and after their losses had been confirmed. However, that is far from certain given an assignment of rights will invariably involve legal considerations and may even require legal advice for either of the parties. Given that, and the closeness in time between losses being confirmed and the court process being finalised, I'm not persuaded it is unfair or unreasonable for any reimbursement under the CRM Code to be contingent on knowing what amount will be disbursed under the legal process.

So, Santander, despite any failings in not adhering to the provisions of the CRM Code, were not – and are still not – in a position to reimburse Mr and Mrs G. Once Mr and Mrs G receive any funds through that legal process, the amount Santander will need to reimburse will be known. And Santander has advised it will seek to refund Mr and Mrs G for that remaining loss under the CRM Code.

It's for the same reasons that I am not in a position to make a formal direction to Santander for it to reimburse Mr and Mrs G their loss with a definitive sum – as the actual amount of loss that it will need to reimburse still isn't currently known. Given the external factors at play, the only determination or award I can reasonably make is that Santander reimburse Mr and Mrs G their remaining loss once the disbursement process has been completed, and what they are due under the CRM Code is known.

Our power to award interest comes from s229(8) of the Financial Services and Markets Act 2000. DISP 3.7 explains the types of awards (and directions) we may make. The power is a discretionary one and we decide cases on a fair and reasonable basis.

Here I've decided that it wouldn't be fair and reasonable to make an award for compensatory interest given the complex nature of these events. And until the disbursement process is completed where Mr and Mrs G will receive a percentage of their loss back, their loss to Santander still isn't known. So, I don't think it would be fair or reasonable to award or direct Santander to pay Mr and Mrs G additional compensatory interest when this process lay outside of its control – that is, it is not due to any *failings* by Santander that they haven't received reimbursement sooner.

I do appreciate that there may be some victims who have already received a refund from other banking providers. So, again, I can empathise with Mr and Mrs G who are clearly frustrated at the length of time things are taking and they are doing their utmost to ensure their funds are reimbursed. I can't comment on why a firm took any action it did. I can only consider the complaint before me. And for the reasons I have given above, in the circumstances of this complaint, I consider it fair that Santander reimburse Mr and Mrs G their remaining loss once the disbursement process has been completed, and what they are due under the CRM Code is known.

Should Mr and Mrs G, after the disbursement process is completed, have any questions about the amount provided to them under this process, then they can contact the FCA on the contact details it has provided victims for this.

And should Mr and Mrs G, after Santander has refunded the remaining loss owed to them under the CRM Code, have a concern about the amount paid or the length of time it took Santander to action the refund after the disbursement process has been completed, then they can revert back to Santander in the first instance. And if unhappy, then they can refer the matter to our service.

In summary, I fully empathise with the situation Mr and Mrs G finds themselves in. It has been an extremely lengthy and frustrating process for them, and they are doing all they can to try and get their money back. But for the reasons explained while I accept Santander could have accepted Mr and Mrs G's fraud claim sooner than it did, I am satisfied that it wasn't in a position to reimburse Mr and Mrs G as the amount due wasn't, and still isn't, known. And I don't consider it would be fair or reasonable to award or direct Santander to pay Mr and Mrs G any additional compensatory interest as a result.

### **Putting things right**

I partially uphold this complaint. I therefore consider Santander UK Plc should:

- reimburse Mr and Mrs G their remaining loss, once the disbursement process has been completed.
- it should do so within 28 days of knowing what it is required to reimburse Mr and Mrs G.
- if Santander UK Plc does not reimburse Mr and Mrs G within the 28-days of knowing what it is required to reimburse, then it should pay 8% simple interest per annum on the amount it was required to reimburse Mr and Mrs G from day 29 until the date of settlement.

### **My final decision**

For the reasons given above, I uphold this complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 30 July 2025.

Matthew Horner  
**Ombudsman**