DRN-5724767

The complaint

Ms W is complaining that Santander UK Plc didn't do enough to prevent her from falling victim to an investment scam.

The complaint is brought on her behalf by a professional representative but for ease I'll mainly refer to Ms W.

What happened

Ms W says that in February 2021 she fell victim to an investment scam after being introduced to it by a relative. Ms W says the scam was mainly conducted over the phone and through remote access.

Ms W says she lost £36,510.11 to the scam. She made payments totalling £37,000 to a cryptocurrency exchange which she says were then transferred to the scam, but she also received £489.89 in returns from the scam so she could buy a laptop to make further payments.

In 2024 Ms W complained to Santander saying she thought it should have done more to prevent her making the payments. Santander replied to say that it wouldn't be refunding Ms W's payments because they were made to another account in her control and so weren't covered by the Contingent Reimbursement Model (CRM) code.

Ms W brought her complaint to the Financial Ombudsman Service. Our Investigator didn't think it ought to be upheld. They didn't think Ms W had provided enough evidence that she'd lost the amount she'd claimed to a scam, and in any event they didn't think any further intervention from Santander would have made a difference to what happened.

Ms W didn't agree, so her complaint has been passed to me for review and a decision.

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'm not upholding Ms W's complaint – for much the same reasons as the Investigator. I'll explain why.

In line with the Payment Services Regulations 2017, consumers are generally liable for payments they authorise. Santander is expected to process authorised payment instructions without undue delay. But it also has long-standing obligations to help protect its customers from financial harm from fraud and scams.

Those obligations are however predicated on there having been a loss to a fraud or scam. And so, it would generally only be reasonable for me to consider whether Santander is responsible for the loss Ms W claims to have suffered if, indeed, the disputed payments had been lost to a scam.

Ms W's not been able to provide evidence of her own communication with the scammer. But we do have some evidence here that a scam took place and that Ms W was involved in it. Ms W's provided a copy of a withdrawal agreement dated April 2021 which shows that she had £37,000 invested in the scheme her relative introduced her to. This document bears Ms W's name and gives the name of a company which we know was being used by scammers at around the same time. So, I do think it shows that Ms W had likely made payments to a scam around the same time as the disputed payments from Santander and for the same amount as the total of the payments she made to the cryptocurrency exchange from Santander.

This evidence, however, doesn't directly link the disputed payments to the scam or show that they were then lost in their entirety. Ms W's not provided evidence from the cryptocurrency exchange (such as statements) to show that these funds were moved on to the scam after they had been paid into the cryptocurrency account from Santander, despite the Investigator asking for it. I'd also want to see that Ms W didn't receive any returns from the scam back to the cryptocurrency account, other than the amount she's told us about. And I can't see that we've been supplied with any detailed explanation from Ms W's representative about why she's unable to supply these statements now – other than that the scam happened a long time ago.

I think this evidence is particularly important here because some of the testimony we've received in relation to this complaint has appeared inconsistent. For example, the payments initially reported to Santander as being lost to the scam and the total value of the loss reported were incorrect, and it wasn't clear which payments Ms W was disputing until the Investigator set out which payments they thought were in dispute and what the total loss was, and Ms W's representative confirmed this. So, it doesn't seem that Ms W was sure at first about which payments had been made to the scam or how much she had lost. There also appear to have been some other inconsistencies in how the circumstances of the scam were explained to us (although these have now been clarified). I do realise some time has passed since the payments were made but as the Investigator has explained, it wouldn't be fair or reasonable to conclude Santander needs to reimburse Ms W for a loss it could have prevented in circumstances where we don't have a clear trail to show that the loss occurred.

However, despite not being persuaded that they had sufficient evidence of Ms W's loss to the scam, for completeness the Investigator went on to consider if Santander had done enough to intervene in the payments on the assumption Ms W had lost the funds to a scam, and if any further proportionate intervention would have made a difference. I think it was appropriate for the Investigator to go on to consider these points in all the circumstances here, so I will do the same.

Santander has told us it has a record of three conversations with Ms W around payments she made or attempted to make to the cryptocurrency exchange, but it's only been able to provide a call recording for the intervention that took place on the first payment of £10,000 which was made on 22 February 2021. And having listened to the call I do think Santander could have probed further about the circumstances of the payment Ms W was making. However, I also agree with the Investigator that I think it would have been very difficult for Santander to have reasonably uncovered the scam even if it had done so.

I think it's important to reiterate that Ms W's close relative recommended she invest in the scam. And from what I know about how this scam unfolded I can see that it was a very sophisticated and convincing scam which Ms W's relative had been investing in for some months before Ms W became involved. It seems likely Ms W's relative had told her she'd seen successful returns so far which is why she recommended it to Ms W.

Although I appreciate we don’t have any direct evidence that the scammer was coaching and guiding Ms W on how to bypass any scam interventions during their phone calls, from the information I do have about how this scam unfolded I think it’s likely that they were - although I can’t be sure Ms W would have followed the scammer’s instructions. But even if Ms W had been open about the details of the scam if Santander had asked more questions about it - such as explaining the involvement of a broker, or the use of remote access - and subsequently received a relevant investment scam warning from Santander, I’m just not persuaded that she would have heeded it. I think Ms W would have referred any concerns a warning from Santander may have raised with her to her close relative, who would likely have been able to allay any doubts or concerns Ms W may have had from her own experience of receiving returns from what she believed to be a genuine investment. Taking into account the scam’s sophistication and how Ms W became involved in it, I think it’s unlikely any further intervention from Santander would have prevented Ms W making the payments.

I’ve thought about whether Santander could have done more to recover Ms W’s funds when the scam was reported to it. But recovery wouldn’t have been possible here, because the funds were paid into another account held in Ms W’s name and Ms W says they were then moved on to the scam and lost.

I’m sorry to disappoint Ms W. But I’m not persuaded that Ms W has suffered a loss to a scam which Santander ought reasonably to have prevented. So, it wouldn’t be fair or reasonable for me to direct Santander to refund the disputed payments here.

My final decision

My final decision is that I’m not upholding Ms W’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms W to accept or reject my decision before 29 August 2025.

Helen Sutcliffe
Ombudsman