

The complaint

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

What happened

In 2022, Mr O was introduced to an investment by a family member. Mr O believed the investment to involve cryptocurrency. As the family member had invested and received returns and completed in-depth due diligence before investing, Mr O decided to invest.

As part of the investment, Mr O would transfer money to an individual I'll refer to as C. C had been friends with the family member, who introduced the investment to Mr O, for a number of years. C would transfer Mr O's funds to the company offering the investment. I'll refer to the company offering the investment as H.

These are the payments that Mr O made from his Santander account.

Date	Details of transaction	Amount
27.1.2022	Transfer to C	£10,052.64
7.2.2022	Transfer to C	£15,156.99
13.2.2022	Transfer to C	£5,510.00
19.2.2022	Transfer to C	£5,507.30
22.2.2022	Transfer to C	£5,505.90
23.2.2022	Transfer to C	£5,507.30

Mr O says he left his investment balance to grow, but before he was ready to withdraw his investment, he became aware that other investors of H had trouble accessing their funds. Ultimately, Mr O never received back any of his investment.

Mr O says that C wasn't involved in the scam perpetrated by H.

Mr O raised a fraud claim with Santander in 2024, asking that they refund his loss. Santander investigated Mr O's claim but declined to refund him. Santander said that Mr O had a civil dispute with C.

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

An investigator looked into Mr O's complaint and recommended that Santander refund him in full. The investigator believed that Mr O's payments were covered by the Contingent Reimbursement Model Code (CRM Code). And, as H and a linked company A, had defrauded investors, Mr O's payments met the definition of an APP scam under the CRM Code.

Santander disagreed with the investigator's opinion, saying that there is no evidence that C was involved in the scam. If C wasn't involved in the scam, the CRM Code wouldn't apply, and Mr O wouldn't be entitled to a refund.

As the case couldn't be resolved informally it was passed to me to review.

Having reviewed the case, I reached a different answer than the investigator. So, I issued a provisional decision explaining why and giving both parties a chance to respond before a final decision was issued.

My provisional decision

In my provisional decision I said:

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.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities. In other words, on what I consider is more likely than not to have happened in light of the available evidence.

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 (PSR's).

Is Mr O 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 O made his payments meets the definition of an APP scam, I need to consider:

- The purpose of the payments and whether Mr O thought this purpose was legitimate.
- The purpose the recipient (C) had in mind at the time of the payments and whether this was broadly in line with what Mr O 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 O was making the payments to C, so that he could invest the funds with H on Mr O's behalf. I haven't seen anything that would suggest Mr O didn't think this was a legitimate purpose.

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

Mr O has told us that he doesn't believe C was part of the scam carried out by A or H. I haven't seen any evidence that directly links C with A or H, or, more importantly, that C didn't use Mr O's funds for the intended purpose. There isn't any evidence that shows C didn't forward Mr O's funds to A or H, as agreed as part of the investment.

We have third party information from the receiving bank, which I can't disclose due to data protection laws. But that evidence doesn't satisfy me that Mr O's payments weren't used in the agreed manner by C.

Based on the evidence, I'm not satisfied that C took Mr O's funds with a different purpose in mind, or that Mr O's funds weren't used for the agreed purpose by C. So, Mr O's payments don't meet the definition of an APP scam and aren't covered by the CRM Code.

The CRM Code doesn't look at the ultimate destination of the funds, only at the beneficiary of the funds, and Mr O hasn't provided evidence that shows C obtained his funds through dishonest deception. C falling victim to a scam carried out by A and H, doesn't mean that Mr O's payments are covered by the CRM Code.

Is there any other reason I could hold Santander liable for Mr O's loss?

Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider 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 – as in practice all banks do.

Even if I was satisfied that Santander should've intervened when Mr O made his payments, I'm not satisfied they would've uncovered that Mr O was potentially the victim of financial harm from fraud. I say this because:

- A family member had previously invested in the same investment and had received the promised returns – which made it appear legitimate.
- Mr O was paying C, who was a long-standing friend of the person who referred the investment to Mr O.
- Mr O says the family member had carried out a number of checks prior to making their investment and Mr O relied on that.
- Mr O referenced C being linked to A. But there wasn't any negative information available about A at the time Mr O made his payments. An FCA warning was issued in July 2022, but this was after Mr O had made his payments.

So, even if Santander had intervened and asked open and probing questions about the investment, I'm not satisfied that I can fairly say they should've been concerned or it would've prevented Mr O from making his payments.

On that basis, I can't fairly say Santander could've prevented Mr O's loss.

My provisional decision was that I didn't intend to uphold this complaint.

Responses to my provisional decision

Santander didn't respond to the provisional decision.

Mr O did respond and raised the following points:

- There is clear evidence that H were operating a scam.
- Mr O's payments are covered by the CRM Code as he made the payments as the result of a dishonest misrepresentation.
- We have incorrectly applied the CRM Code, which covers customers who have been defrauded. The Code doesn't look at the knowledge or the intent of the recipient.
- There is compelling evidence that Mr O's funds weren't used for the intended purpose by H.
- If Santander had provided meaningful warnings, it would've prevented Mr O's loss.
- Other cases with payments made to C have had a different outcome.

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 considered the points raised by Mr O, I've reached the same answer as I did in my provisional decision, for the following reasons:

- There is no dispute that H were operating a scam, but that doesn't mean that Mr O is entitled to a refund.
- The CRM Code does look at the recipient of the funds, not the end destination of the funds. So, without any evidence that C scammed Mr O or that C didn't use Mr O's funds for the intended purpose, Mr O's payments aren't covered by the CRM Code.
- Mr O hasn't provided any evidence that proves C was complicit in the scam or that C didn't invest Mr O's funds as agreed.
- Santander not intervening as they should've, doesn't mean that Mr O is entitled to a refund. I have to consider what I believe would've happened if they had intervened, and whether it's more likely than not the intervention would've prevented Mr O's loss.
- I'm not satisfied that a warning provided by Santander would've prevented Mr O from making the payments. I say this because the investment was referred by a family member, who had carried out checks, invested themselves and received returns. Also, the payments were made to C who was a long-standing friend of that family member. So, all of the information available to Mr O suggested that it was a genuine investment. On that basis, I'm not persuaded that it's more likely than not a warning would've impacted on Mr O's decision to invest.
- Mr O says that other cases involving payments to C have had a different outcome. However, in reaching an answer on Mr O's case, I have to take into account his circumstances in making the payments and the evidence provided.

I'm really sorry that Mr O has suffered a financial loss, but based on the evidence, I'm not satisfied that I can fairly hold Santander liable for his loss.

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 O to accept or reject my decision before 30 September 2025.

Lisa Lowe
Ombudsman