

The complaint

Mr M has complained that Santander UK Plc won't refund money he says he lost to a scam.

What happened

in oil investments. Off the back of that he received a call from the scammer. He was shown the trading platform, which displayed live trades and appeared highly professional. The website had all the genuine features of a legitimate investment site.

On 30 July 2021, Mr M made an initial payment of £25,000 to a cryptocurrency platform. He then made a second payment that day for the same amount. Mr M has said that prior to the payments being made, he received a call from Santander to verify the transactions. Mr M has said that he felt the transactions were safe and legitimate, so after answering Santander's questions the transactions went through.

Mr M has also said he was able to withdraw £2,000, which reinforced his belief in the investment opportunity. But when the scammer became unresponsive and he could not withdraw his supposed profits he realised he had been scammed.

The transactions on Mr M's accounts showed as follows:

Date	Payment	Transaction Type	Amount
30 July 2021	1	Faster Payment	£25,000
30 July 2021	2	Fater Payment	£25,000

Mr M complained to Santander. It looked into Mr M's complaint and said on 30 July 2021 he choose the reason for his payment as transfer to his own account and received a relevant scam warning for this payment reason. Santander believed the payments were not considered unusual when compared with Mr M account activity. So, the fraud claim was declined.

Mr M remained unhappy and referred his complaint to our service. Our investigator looked into Mr M's complaint, but he didn't recommend it be upheld. Mr M disagreed and asked for the complaint to be passed to me.

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 agree with the investigator's findings, for broadly the same reasons, I will explain why.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mr M knowingly made the payments from his Santander account – albeit under the direction and guidance of the

scammer as he believed the scammer to be legitimate. And so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of his account, Santander is expected to process Mr M's payments, and he is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for Santander to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

So, the starting point here is whether the instructions given by Mr M to Santander (either individually or collectively) were unusual enough to have expected additional checks being carried out before the payments were processed.

Having considered Mr M's transactions in the months prior to the scam, I am aware that Mr M had made several high value payments ranging from £19,000 to £9,000. So, it wasn't unusual for Mr M to make high value payments from the account. I have also considered the fact that these payments were to a cryptocurrency platform, which Mr M has made several transactions to prior to the scam payments in question and also received credits from the same account. So again, this wasn't out of character activity.

However, on 30 July 2021 when Mr M made payment one it was identifiably going to a cryptocurrency platform and was larger than any other payment that had debited account. In comparison with the previous transactions, payment one was an escalating payment of an increased value being a potential indicator of fraud. Therefore, in my view, there was enough about the characteristics of this transaction and the activity on Mr M's account that ought to have been concerning; such that Santander should have intervened at that time to indicate he could be at risk of fraud. So, I am satisfied that it is fair and reasonable to conclude that Santander should have warned its customer before this payment went ahead.

To be clear, I do not suggest that Santander should provide a warning for every payment made to cryptocurrency. Instead, as I've explained, I think it was a combination of the characteristics of this payment (combined with those which came before it, and the fact the payment went to a cryptocurrency provider) which ought to have prompted an intervention. I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due consideration to Santander's duty to make payments promptly, as well as what I consider having been good industry practice at the time this payment was made. Given the value of the payment, I think it was appropriate for Santander to have contacted Mr M (via human intervention) to make further enquiries with Mr M about the purpose and circumstances surrounding the payment before allowing it to be made. I'd also have expected Santander to have reacted to the answers Mr M gave and asked to follow up questions dependant on what he said.

I have considered what I think is most likely to have happened if Santander had completed an intervention as I have described above. And in doing so, on balance I'm not persuaded that it would have prevented Mr M's losses. Having reviewed the scam chat provided, it is apparent Mr M trusted the scammer. Mr M's representative has objected to this point, so I have highlighted aspects of the conversation to demonstrate the trust which has been built between Mr M and the scammer.

28 June 2021

Mr M: I trust your endeavours and I believe that this is to be a most excellent week for us.

On 29 June 2021

Scammer: *You didn't let me down*

Mr M: *In this together.*

9 July 2021

Scammer: *Mr M, please do not speak to anyone else apart from me. You could change the password for your online banking as well for us to be safe. The funds may drop on your account over the weekend. No matter if it does or not, on Monday, I will be on seat for us to continue/confirm the transaction.*

Mr M: *I've had 5 calls today! All unanswered and blocked. I will be changing ALL Passwords and we should delete this chat stream and start Afreshie!*

13 July 2021

Scammer: *Answer their questions easily but do not go into details, tell them that it's taking so long, and ask when you would be getting the funds, It's been close to 2 weeks.*

15 July 2021:

Mr M: *Your skillz are on fire and I believe we can get there.*

Scammer: *your call Mr M, but we will repay that 35K in no time. Hell, I'll cover the repayments for you. My job is to make a plan, whether you follow it or not is your call.*

Mr M: *Should I give the application a go??*

Scammer: *Definitely*

These are just snippets from the conversation over a long period of time. Not only does this show trust was built, Mr M felt he was 'in it with' the scammer, was taking guidance from the scammer and off the back of the scammer's advice took a loan out, despite Mr M stating prior to that he had nothing more to invest and was 'tapped out'. There is also evidence of the scammer coaching Mr M on what to say. This shows how manipulative and convincing the scammer was and unfortunately Mr M was under the spell of the scammer.

Secondly, I can see that when Mr M was asked to provide further information from a third-party firm (where he was also sending money to the scammer) who had intervened on payments and was enquiring about source of funds, Mr M wasn't forthcoming with the questions it asked. He expressed dissatisfaction and didn't provide the requested documentation.

Lastly, I have also considered that Mr M was open and transparent about the reasons he was applying for the loan and was coached by the scammer on how to answer certain questions to get the loan approved quicker. And while he wouldn't have been able to provide the same explanation (if Santander had intervened on payment one), I think accompanied by the scam chat, it is evident Mr M was willing to do what it took to make the payments and seek advice from the scammer.

So even if Santander had intervened, (bearing in mind the time the scam occurred) as I have highlighted above, I think it is unlikely the scam would have been uncovered. The transactions in dispute were not the first payments sent to the recipient, as such Mr M had experience making these transactions previously. He had built trust with the scammer and

often took screenshots and asked for the scammers comments before proceeding, alongside being coached by the scammer. So based on his previous experience, and relationship with the scammer, I am satisfied Mr M would have been able to circumvent the questions Santander would have asked (bearing in mind the date when these transactions were made) by offering the appropriate assurances.

I am satisfied that Mr M was more persuaded by the scammer and the returns Mr M believed he had made to the extent Santander wouldn't have been able to break the spell and unveil the scam. Therefore, I can't reasonably hold Santander responsible for this.

I have gone on to consider if Santander took reasonable steps to try and recover the funds once it was made aware. Mr M didn't make the payments to the scammer directly, he transferred his funds to accounts in his own name. If these funds had not already been transferred to the scammer by Mr M they would be in his control to access as and when he chose. Santander would not have been able to attempt to retrieve the funds from the scammer directly as that is not where the funds were originally sent to. So, it follows that I won't be asking Santander to do anything further.

Compensation

The main cause for the upset was the scammer who persuaded Mr M to part with his funds. I haven't found any errors with Santander's investigation, so I don't think he is entitled to any compensation.

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 Mr M to accept or reject my decision before 11 December 2025.

Jade Rowe
Ombudsman