

The complaint

Mr B has complained that Santander UK Plc won't refund the money he lost after falling victim to a scam.

What happened

In 2021, Mr B was introduced to a cryptocurrency investment scheme by a friend, which turned out to be a scam. To fund his investment, Mr B made two payments in quick succession from his Santander account to his account at a cryptocurrency exchange, totalling around £5,000. He then sent crypto on to the scammers' platform.

In 2024, Mr B complained about the scam to Santander via representatives. Santander explained that it sympathised, but it didn't think it was liable for Mr B's loss.

Our Investigator looked into things independently and didn't uphold the complaint. Mr B's representatives asked for an ombudsman's decision, so the complaint's been passed to me to decide.

I sent Mr B and Santander a provisional decision on 13 October 2025, to explain why I thought the complaint should be partially upheld. In that decision, I said:

There's no dispute that Mr B authorised the payments involved, even if he didn't intend for the money to end up with scammers. So under the Payment Services Regulations and the terms of his account, Mr B is liable for the loss in the first instance. But the matter doesn't end there.

Taking into account the law, regulator's rules and guidance, relevant codes of practice, and what I consider to have been good industry practice at the time, I consider that Santander should have fairly and reasonably:

- *Monitored accounts and payments to counter risks such as fraud and scams;*
- *Had systems in place to look out for particularly unusual transactions or other signs its customers were at risk of fraud;*
- *In some circumstances, taken further steps or made further checks before a payment went out, or even blocked it, to help protect customers – irrespective of the type of payment involved.*

Based on what I've seen so far, I find that Santander should have intervened at the point of the second payment. It was made rapidly after the first, bringing the total spend that day to a concerningly large amount, going to a new payee, which was a crypto site. And while back then Santander was not as on notice about crypto scams as it was in later years, by that point the Financial Conduct Authority (FCA) and Action Fraud had published warnings about crypto scams and they were becoming relatively prominent, so I think Santander would've had a reasonable understanding that there was an increased risk there. In the preceding period, Mr B did not make crypto-related payments, and he only spent similar or larger amounts on a small few occasions, which appear to have been one-offs – this was not usual activity for him. So while I accept that the scam payments were properly authenticated, I think that at the point of the second payment, the spending stood out as being sufficiently concerning on potential scam grounds that Santander should've intervened.

*In reaching my decision that Santander should have made further enquiries, I've taken into account the Supreme Court's decision in *Philipp v Barclays Bank UK PLC* [2023] UKSC 25.*

In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks when making payments. In summary, among other things, it said:

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, the bank must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.*
- The express terms of the current account contract may modify or alter that position. For example, in *Philipp*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP Fraud; though the court said that having the right to decline to carry out an instruction was not the same as being under a duty to do so.*

In this case, Santander's terms and conditions gave it rights (but not obligations) to:

- 1. Refuse any payment instruction if it reasonably suspects it relates to fraud or any other criminal act.*
- 2. Delay payments while fraud prevention checks take place, with the potential need to contact the accountholder if Santander suspects that a payment is fraudulent. Such contact could be by phone.*
- 3. Suspend payment methods for security reasons or to prevent fraud.*

So the starting position in law was that:

- Santander was under an implied duty at law to make payments promptly.*
- It had a contractual right not to make payments where it suspected fraud.*
- It had a contractual right to delay payments to make enquiries where it suspected fraud.*

- *It could therefore refuse payments, or make enquiries, where it suspected fraud, even if it was not under a contractual duty to do either of those things.*

While the account's terms did not oblige Santander to do fraud checks, I do not consider that any of these things (including the implied basic duty to make payments promptly) precluded Santander from making fraud checks before making a payment.

And while Santander was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements, and what I consider to have been good practice at the time, it should fairly and reasonably have been on the lookout for the possibility of fraud, and should have taken additional steps – or made additional checks – before processing payments in some circumstances, such as in the circumstances of this case.

So for the reasons I've explained, I find that Santander should have intervened in this case.

Had Santander intervened and asked reasonable questions, it seems most likely that it could have uncovered the scam and stopped any further loss. The matter bore key hallmarks of a scam, such as promising highly unrealistic returns and earning by recruiting more people like in a Ponzi scheme, and there were existing regulators' warnings about the scheme. I've not found good reason to conclude that Mr B wouldn't have been honest about why he was sending this money – he thought he was just investing and he wasn't told to lie if questioned. And I've found no good reason why Mr B would not have listened to Santander – it is a well-known name in banking, he accepted he was inexperienced, and it could have directed him to the warnings about the scheme.

Santander argued that it should not be held liable because the payments went to an account in Mr B's name. But Santander should have fairly and reasonably been on the lookout for potentially fraudulent payments, even if the payments were going to another account in the customer's name. There were prominent scams which involved paying an account in one's own name. And identifying and preventing such scam payments would've still had the effect of preventing a loss to its customer. So Santander could still be held liable for a loss which resulted from its failure to intervene – which is what I've found to have most likely been the case here.

So I think that Santander bears some liability for the loss from the second payment.

I've also thought carefully about Mr B's role in what happened. I do appreciate that Mr B was following the recommendation of a friend. But I'm afraid I think Mr B ought to have had more concerns along the way about what he was being told, such as the unrealistic returns being promised. And a quick internet search at the time should've revealed existing scam warnings, including from the UK and foreign regulators. So I don't think I can fairly hold Santander solely liable for Mr B's loss. I think Mr B should also share liability for that loss.

Finally, I've considered what Santander did to try to recover Mr B's money after he told Santander about the scam. Unfortunately, it wasn't possible for Santander to retrieve funds which Mr B had already sent on in crypto from another account years ago. The only money which could be returned was the small amount still remaining in Mr B's own crypto account, which was still available to him anyway. And as these payments were made to Mr B's own crypto account, they were not covered by the CRM Code for scams.

Overall, I think Santander bears some liability for the loss from the second payment, and it should settle the complaint in the way I've outlined below.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 27 October 2025.

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 response to the provisional decision, Mr B accepted it, while Santander made the following arguments.

Santander argued it might be possible that Mr B's payments were intended to pay for cryptocurrency investment training rather than for buying into the investment scheme itself. However, the communication history and screenshots evidence that Mr B's payments were for buying into the scheme itself, in line with his credible testimony.

Santander argued it didn't need to flag the second payment because it was going to an account in Mr B's own name at a registered firm, this wasn't quite his largest spend that period, it didn't drain his account, and the bank wasn't yet as on notice about crypto scams as it was in later years. However, I'm afraid I already took these factors into account. I must balance them against the other relevant factors. For example: how rapidly the spending was being made, how this brought the total spend to a concerningly large amount which was not usual for this account, how it went to a new payee, and how that payee was a crypto site – which Santander would've still reasonably understood carried some increased risk. At the point of the second payment, the spending stood out as being sufficiently concerning that Santander should have intervened.

Santander also pointed out that it would've been satisfied that Mr B had authorised the payments, given how they were made. But there was no dispute about that. I never suggested that Santander should've intervened based on any authorisation concerns. But for the reasons set out above, the spending stood out as being sufficiently concerning on potential scam grounds that Santander should've intervened. As Santander knows, scams commonly involved customers authorising the relevant payments themselves.

Finally, Santander suggested that intervention wouldn't have uncovered the scam, because Mr B was paying into his own account on the recommendation of a friend, after he checked some reviews and the scammer held a networking event.

However, reasonable questioning should've revealed key hallmarks of a scam, such as the highly unrealistic returns being promised, and the scheme seeming to work like a Ponzi scheme. It certainly would've been reasonable to ask for the name of the scheme, which would've brought up multiple regulators' warnings. As before, I've found no good reason to conclude that Mr B would've been dishonest – he thought he was just investing, and he wasn't told to lie if questioned. So it's most likely that reasonable intervention would've uncovered the scam. I've not found any reason to conclude that Mr B considered his friend more knowledgeable than his bank. Further, Santander is a well-known name in banking, Mr B accepted he was inexperienced, and he could've been rather straightforwardly directed towards the existing warnings about the scheme, which should've resonated. So it seems more likely than not that reasonable intervention would've stopped the loss in this case.

So I still find that Santander should've intervened at the point of the second payment, and that reasonable intervention would've most likely stopped the loss there, for which Santander can be held liable. And so I still think that Santander bears some liability for the loss from the second payment.

And so having reconsidered the case, I've come to the same conclusion as before, for the same reasons as set out in my provisional decision above.

Putting things right

I direct Santander UK Plc to:

- Refund 50% of the loss from the second payment (the loss being the second payment, less the funds returned); and-
- Add simple interest at the rate of 8% simple per year onto the refund, payable from the date the partially-reimbursed payment debited until the date of the refund.

If Santander considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from that simple interest, it should tell Mr B how much tax it's taken off. It should also give Mr B a tax deduction certificate if he asks for one. Mr B may be able to reclaim the tax from HMRC if he doesn't normally pay tax.

My final decision

I uphold Mr B's complaint in part, and direct Santander UK Plc to put things right in the way I set out above.

If Mr B accepts the final decision, Santander UK Plc must carry out the redress within 28 days of the date our service notifies it of the acceptance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 November 2025.

Adam Charles
Ombudsman