

The complaint

Mr M complains Santander UK Plc didn't do enough to protect him when he fell victim to a romance scam and lost a considerable sum of money as a result.

What happened

The background to this complaint is familiar to both parties – and has been set out in detail by our Investigator - so I'll only refer to some key events here.

Between January 2021 and December 2023 Mr M made more than a hundred payments from two credit card accounts he held with Santander to several payees via a legitimate payment processor. At the time he believed these payments were going to individuals he'd met online, at least one of whom he'd built up a close relationship with. Mr M has explained that he made some of the later payments believing it would help him recover earlier losses. He now realises that he was being scammed.

On discovering he'd been scammed, Mr M asked Santander to reimburse his losses, noting that he had been vulnerable at the time he fell victim to the scam. Santander explained that there was nothing about Mr M's payments that alerted it to the fact that he was potentially falling victim to a scam, as they looked in keeping with his usual account usage. It said it therefore had no reason to intervene in the payments and so it had not missed an opportunity to prevent Mr M's loss.

Mr M was dissatisfied and referred his complaint to the Financial Ombudsman. Our Investigator carefully considered Mr M's complaint but did not consider Santander had done anything wrong. He agreed the payments lost to the scam did not appear sufficiently unusual or suspicious when considered alongside Mr M's legitimate spending. He was also not persuaded that even if Santander had intervened it would have prevented Mr M's loss. In reaching this conclusion he noted that another of Mr M's banks had intervened, warned him that he was likely being scammed, but Mr M continued to make payments to the scam. He was also not persuaded that any of Mr M's payments could have been successfully recovered via a chargeback claim.

Mr M disagreed and asked for his complaint to be referred to an Ombudsman for a final decision. He said he could not understand how Santander could argue that the payments were not unusual. He highlighted three periods of time where he had made multiple payments to the scam:

- 16 – 23 February 2022 – 30 transactions totalling £4,523.08
- 10 – 30 November 2022 – 42 transactions totalling £4,576.38
- 11 – 31 December 2022 – 31 transactions totalling £4,194.07

Mr M also noted that he had only been asked for an OTP on a small number of payments, which was a small percentage of the total number of payments made. Mr M also highlighted the impact the scam had on him – both financially and mentally – as well as on

his family.

The complaint has now 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.

I want to make it clear from the outset that there is no doubt that Mr M has been victim of a cruel scam. I do not underestimate the impact this has had on him. While there are certain obligations on banks to protect consumers and prevent losses to scams in certain circumstances, these are not absolute. And so, there are unfortunately occasions where a consumer will lose out but have no recourse to a refund from their bank.

So, while I accept Mr M has lost a significant amount of money due to the deception of scammers, I must consider whether Santander is responsible for the loss he's suffered. I know this won't be the outcome Mr M is hoping for, but for similar reasons to our Investigator, I don't think it is. So, I don't think Santander has acted unfairly by not refunding the payments. I'll explain why.

Should Santander have recognised Mr M was at risk of financial harm from fraud?

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And where a customer has correctly authorised a payment, they are deemed liable for it 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 a bank to take additional steps or make additional checks before processing a payment(s) to help protect its customers from the possibility of financial harm from fraud.

I appreciate Mr M has raised concerns that he was only asked for an OTP on a few occasions, and that most of his payments were processed without him needing to take further steps to authorise them. But the purpose of an OTP is to confirm that the cardholder has authorised the payment. It is not designed to warn against scam risks. And here there is no dispute that Mr M authorised the payments, so whether Santander asked for OTPs or not would not, to my mind, have impacted his loss.

Instead my focus has been on whether Mr M's payment instructions were sufficiently unusual or suspicious that Santander ought to have recognised there was a significant risk Mr M may be at risk of financial harm from fraud, which should have led it to carry out additional checks before processing the payments. When considering this I cannot apply the benefit of hindsight. I must only consider what Santander knew, or ought to have known, at the time the payments were instructed. And I'm mindful that there is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

While I appreciate Mr M feels strongly that Santander ought to have intervened, for similar reasons to our Investigator, I don't think it needed to. I say this because:

- While Mr M made hundreds of payments as part of the scam, these were spread over more than two years and were dispersed amongst genuine spending. Taking a step back and considering Mr M's overall payment

history, I don't consider the scam payments were easily identifiable.

- While Mr M was making payments to various different payees, they were all made via a legitimate payment processor that Mr M also used for legitimate spending. And so payments to that payment processor would have appeared normalised for Mr M's account.
- The scam payments varied in value - the highest single payment was for £460.50 but more than half were for less than £100. While the total loss to Mr M was considerable, the individual values of the payments would not have looked unusual or suspicious, especially when viewed alongside Mr M's typical account usage.
- While there were periods of time when Mr M made more frequent payments to the scam, and at times clusters of payments over a single day or over consecutive days, this was not completely out of keeping with the legitimate spending on the account where Mr M also made frequent payments and multiple payments on a single day.

For these reasons, I'm not persuaded that Santander ought to have been sufficiently concerned about Mr M's payments, either individually or collectively, that it should have intervened before processing them. But even if Santander had intervened in any of Mr M's payments, I'm not persuaded that it's more likely than not that it would have prevented his loss.

The available evidence shows that Mr M had unfortunately fallen deeply under the scammers influence and control. This led to him continuing to make payments, even when he suspected that he was being scammed and recognised that he'd lost a considerable sum of money to the scam. For example, in January 2022, Mr M said in a message to the scammer *"I've been let down so many times paying £1,000 up front and then no one shows"; "Your cousin did this last year as well. I'm just being scammed" and "I want it back it's a scam I will report you"*. Despite this, Mr M continued to make payments in the days after sending these messages.

There are multiple other messages like this throughout Mr M's various chats with the scammers. But again, even when Mr M expresses anger at the scammers actions and calls them out for being a *"thief"* *"liar"* and *"scammer"*, he nevertheless continues to make payments to them.

In August 2022, another bank intervened in a payment Mr M attempted to make to one of the scammers. During a telephone call with the bank's fraud department, Mr M revealed that he thought he was likely being scammed and was pleased that his payment has been stopped. The adviser agreed that Mr M had been scammed and confirmed that the particular account he had tried to send funds to was fraudulent. Yet despite this, Mr M made it clear that he still wanted certain payments to be processed, as he believed there was a chance that he'd get some of his money back. The bank's fraud adviser warned Mr M against sending any further payments to the scammer and highlighted his concerns that Mr M was still under the scammer's influence. As Mr M mentioned that he had made other payments from his Santander credit card, the fraud adviser also advised him to report what was going on to Santander. But instead of doing so Mr M continued to make many more payments to the scammer and did not report the scam to Santander for more than two years.

I mention these things not intended to apportion blame on Mr M. I recognise that he was in a vulnerable emotional and mental state and the scammers unfortunately took advantage of this. I'm also mindful that scammers such as the ones Mr M encountered are highly skilled

at manipulating their victims. But considering the amount of influence and control the scammers had over Mr M, I think it would have been very difficult for Santander to have broken their spell to such an extent that his eventual loss to the scam could have been avoided.

In conclusion, I have a great deal of sympathy with Mr M being the victim of what was clearly a cruel scam. But it would only be fair for me to direct Santander to refund his losses if I thought it was responsible for them, and for the reasons I have explained above, I'm not persuaded it was.

My final decision

For the reasons given above, my final decision is that I do not 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 12 March 2026.

Lisa De Noronha
Ombudsman