

The complaint

Mr R complains that Santander UK Plc (“Santander”) won’t refund him the money he lost, to what he believes to be an Authorised Push Payment (“APP”) investment scam.

What happened

The background to this complaint is well known to both parties and has been laid out in detail by our Investigator in their view, so I won’t repeat everything again here. But, in summary, I understand it to be as follows.

In or around mid-2023, Mr R was introduced to an investment opportunity by some friends. Mr R has said he was put in touch with someone, who I’ll refer to as “D” and met them in person. “D”, was acting as an introducer for the investment.

The investment revolved around a fund, which I’ll call “B”. Mr R understood the premise of the investment to be that investor funds would be deposited for the purpose of generating profits through betting schemes – with the opportunity of receiving stable monthly returns, with no downside risk.

Mr R has said he carried out his own research, which didn’t cause him any concern. As well as this, he’s said he spoke with other investors, which included long standing friends, who had seen returns and had been able to withdraw money.

Believing everything to be genuine, Mr R decided to invest and between 8 June 2023 and 30 November 2023, he sent three payments from his Santander account. The payments went to two different company accounts, that were held with international banks. A breakdown of these payments is listed below:

Payment	Payment to	Payment type	Amount
1	Company 1	Faster Payment to International account	£80,306
2	Company 2	Faster Payment to International account	£20,000
3	Company 2	Faster Payment to International account	£10,000
		Total payments:	£110,306

On 21 February 2024, Mr R was able to make a withdrawal for £21,040, which credited his Santander account. However, Mr R has said he began to grow suspicious due to the length of time it took to process the withdrawal. Shortly after, in May 2024, Mr R received an email from the fund manager, who I’ll call “W”, saying that trading had ceased, but that plans were being put in place and that the company was seeking legal advice.

Mr R didn’t receive any further returns and so reported the matter to Santander. Santander looked into Mr R’s complaint but didn’t uphold it. In summary, it didn’t consider it was liable to refund Mr R the money he’d lost, as it deemed this to be a civil matter.

Unhappy with Santander’s response, Mr R brought his claim to this service. One of our Investigators looked into things but didn’t think the complaint should be upheld. In summary, it was our Investigator’s view that the evidence didn’t support that the payments were made

as the result of an APP scam, so she didn't think that Santander were liable to refund the money that had been lost. Our Investigator also said that even if Santander had intervened further than it did, she didn't think it would have made a difference and led to Santander refusing to put the payments through.

Mr R didn't agree with our Investigator's view. In summary, he maintained what had happened was a scam and that Santander should have done more to protect him. He also provided further evidence, by way of a 'Blockchain Investigation Report', which he considers provides evidence of dishonest intent from the outset.

As agreement couldn't be reached, the complaint has been passed to me for a final 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.

In his submissions and in his response to our Investigator's view, Mr R has provided some detailed arguments, as to why he thinks what has happened is a scam and why he thinks Santander is liable to reimburse him the money he lost.

I won't be responding in kind, and I won't necessarily go through every single point on a strict point-by-point basis, nor go through all the potentially relevant rules line-by-line, as a court might. I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

On bringing his complaint to this service, I'm mindful Mr R has referred on numerous occasions to other people who he's said had fallen victim to the same scam who had been refunded by their banks. But I would point out that, while on the surface complaints may seem quite similar, each complaint is determined by its own individual circumstances. I can't comment on other cases, nor of the actions other banks may have taken, that are unrelated to this complaint. Here, as I'm required to do, I'm only looking at the individual circumstances of Mr R's complaint about Santander.

I'm sorry to hear about what's happened to Mr R. It's clear he's lost a significant amount of money here. In his correspondence to this service, he has also shared some details of the impact these matters have had on him, which I imagine wasn't easy to do. I thank him for this and it's clear to me what has happened has had a huge impact on him, not only financially but mentally and emotionally too. I don't underestimate just how difficult things have been for him, nor do I underestimate his strength of feeling regarding this complaint.

It's then with regret that I have to tell him this service is unable to help recover his losses. I'm sorry to disappoint Mr R, but I'm not upholding his complaint. I'll explain why.

In his response to our Investigator's view, Mr R has argued that the Contingent Reimbursement Model (CRM Code) wasn't being applied consistently.

Santander was a signatory to the Lending Standards Board's CRM Code, which was in place at the time Mr R made these payments. Under certain circumstances, a customer may be entitled to reimbursement under that Code. But it does not cover all APP scams. Defining

its scope in more narrow terms, it specifically excluded certain payments. Relevant here, the scope of APP scams covered by the CRM Code only covers payments between UK based accounts. Here, as the payments Mr R made were to international based accounts, they would not fall under the provisions of the CRM Code, so it is not a consideration here.

However, that is not the end of the matter. Banks have various and long-standing commitments to be alert to fraud and scams and to act in their customers' best interests. But these are predicated on there having been a fraud or scam. So, my first consideration must be whether Mr R has fallen victim to a scam.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods that were arguably unethical and/or misleading. However, whilst customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud.

To find that this was fraud, I'd expect (a) there to be a misalignment between the purpose for which Mr R made the payment and the purpose for which it was procured; and (b) that difference to have been due to dishonest deception.

The key consideration here is what the intentions were of the recipient. Here the funds were intended to go to B, albeit it would seem clear they were sent through accounts that weren't held in B's name. Obviously, I can't know what the intentions were for sure, so I have to look at what the other available evidence shows and use that to infer what the intentions likely were.

It is worth noting that the threshold for establishing fraud is a high one. In criminal proceedings, the standard of proof is "beyond reasonable doubt," but this service assesses cases using the civil standard of proof, which is based on the balance of probabilities. Under this standard, a finding of fraud must be more likely than not. Even so, the bar remains high. It is not enough for fraud to be a compelling or persuasive explanation, nor is it sufficient for it to be the most likely among several possible explanations. It must be more probable than the opposite conclusion i.e. that fraud did not occur.

I've considered the evidence submitted carefully and, for broadly the same reasons as set out by our Investigator in their view, I'm not persuaded that it does meet that standard. I'll explain why;

- In response to our Investigator's view, Mr R has shared details of a 'Blockchain Investigation Report' into B, which, in summary, he says shows textbook Ponzi scheme behaviour. He adds that the report shows the money is being used for recycling cryptocurrency, not to fund transactions with B, and that the overwhelming flow of funds is not to betting platforms. Firstly, it is worth noting that this report seems to be based on many assumptions and isn't specifically related to the payments Mr R made – so it would be unsafe of me to take any firm positions, based on its content. However, the report does suggest that funds (to the value of \$ millions) did go towards betting systems. The report also indicates that some funds were being repaid to clients, which is consistent with Mr R's own testimony and with his own experience (with him receiving over £20,000 back into his account). This supports, at least in part, that money was being used for its intended purpose.
- Mr R has also said the report also shows that money was being used to purchase and trade cryptocurrency, rather than to invest in B. However, as mentioned above, the report doesn't specifically evidence that Mr R's funds were converted into

cryptocurrency. And, even if we were to assume that the funds were converted into cryptocurrency, given the report details that some funds were used for betting systems, it is still possible that the funds were used for their intended purpose. Based on the evidence currently available, I can't say for sure that it is more likely than not that the funds weren't used as agreed, as opposed to simply being lost due to poor investment performance.

- I note the report also concludes that there was an indication of a lack of a solid investment structure, which carried high risk. While this may point to poor financial planning or mismanagement, it doesn't necessarily indicate fraud. There are plausible alternative explanations that don't involve dishonest intent.
- The report also recommends that next steps involve further examination through legal or law enforcement channels. It is not the roll or purpose of this service to forensically analyse matters, nor to follow a money trail. That would be a matter for other bodies, such as the police or a court. In the circumstances of this case, I've not been made aware of any ongoing criminal investigation. But it's worth noting that if there was a live investigation, I acknowledge, that this would give the appearance, to the layman, to be proof Mr R has been the victim of fraud—as it infers that the police have taken the matter seriously enough to pursue this course of action. However, the purpose of an investigation is to gather evidence. And that will likely go toward investigating an accused's intent at the time; the result of which may or may not lead to a prosecution.
- Conversations Mr R had with fellow investors evidenced that people were receiving returns on their investments and able to make withdrawals. And I can see that Mr R has said a friend had withdrawn more than they had invested. This is not typical of a fraud. That said, I do acknowledge that some frauds will include victims receiving 'bait' payments, to entice them to send more, and there may be situations within a 'Ponzi scheme' where some people benefit at the expense of others. I don't completely rule that out. However, it is an equally possible hypothesis, in the circumstances here, that this was an investment that had initially performed and been able to deliver in line with expectations, but then failed.
- In the circumstances of this case, I'm also aware that W wrote to Mr R (and as I understand it other investors), informing him that the company had hit some liquidity issues and that it was seeking professional/legal support to work through these. While this doesn't rule out the possibility of fraud, this is not usual behaviour for a fraudster. More typically, once a fraudster has taken money from their victims, they will not reach out to them like this.

Overall, with all things considered, I'm not persuaded that the available evidence supports that it is more likely than not that Mr R has been the victim of a fraud here. As I'm not sufficiently persuaded B was a scam, I can't reasonably say there would have been a reasonable expectation for Santander to have intervened in Mr R's payments before they were sent.

However, for the purposes of this decision, I think it would be useful for me to add that even if I were to accept that what has happened was a scam (which for the avoidance of doubt and for reasons explained above I don't), I'm not persuaded that I would reach an outcome that would lead me to ask Santander to refund Mr R. I'll explain why.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and conditions of the

customer's account. But that isn't the end of the story. Good industry practice required that Santander be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.

Having reviewed the activity on Mr R's account, I'm satisfied that the payments he made were unusual and out of character and they were of values that weren't typical of how he ran his account. So, I would have reasonably expected Santander to have intervened before allowing the payments to be progressed. I think a proportionate response to the risk would have been for Santander to have attempted to establish the circumstances surrounding the payments before allowing them to debit Mr R's account. I would have expected it to have done this by contacting Mr R to discuss the payments further.

Santander did intervene on the first payment and contacted Mr R to discuss it, and I've heard that it did provide him with some generic scam warnings. I agree with our Investigator, that I don't think this intervention went far enough. I think it ought reasonably to have questioned Mr R further to establish more details about the purpose and nature of the payment he was making. But although I think Santander could have done more, this, in and of itself, isn't enough for me to say that Santander should refund Mr R the money he lost. I also need to be persuaded that any further proportionate intervention/questioning would have made a difference and prevented the payments from being made.

I think had Santander questioned Mr R further, the answers he likely would have provided would have suggested to Santander that he was dealing with a legitimate investment opportunity, which would not have necessarily raised any red flags for Santander or led to any more detailed questions being asked. Of course, I can't know for sure what would have happened, so I have to base my findings on the balance of probabilities – that is, what I think is more likely than not to have happened, taking into account what I know.

Mr R would have been able to explain that he had carried out research and met face to face to discuss matters with those involved in the investment. As well as this, he would have been able to relay to Santander that he'd had conversations with people he knew, and had known for many years, who had already invested and who were seeing returns/able to make withdrawals. Alongside this, he had received professional documentation and marketing material and there wasn't any information that would have made it apparent that there was a risk of financial harm through fraud. Furthermore, Mr R has said he had requested additional legal opinions before deciding to invest.

So, although I'm persuaded that Santander could have done more than it did here and it's questioning could have gone further. I'm not persuaded that any level of intervention that could fairly have been expected of Santander would've uncovered any meaningful negative information, such that Mr R wouldn't have continued with his payments. It's worth noting that I wouldn't expect Santander to provide advice to Mr R on the suitability of the investment. And just because it was an unregulated investment, doesn't mean that it wasn't genuine or that Santander should've been concerned.

I'm really sorry that Mr R has suffered a financial loss, but I'm not satisfied that I can fairly hold Santander liable or ask it to refund him the money he sadly lost. I don't say any of this to downplay what Mr R has been through here. He put a lot of trust in what he was told, and he hasn't received what he expected. I have a great deal of sympathy for him and the position he has found himself in.

I also want to make it clear that this decision should not be interpreted as a categorical or definitive conclusion that he was not the victim of a scam. It remains possible that he was. However, my role requires me to base my findings on the evidence that is available to me.

After carefully reviewing all of the material presented and considering the circumstances in detail, I am not satisfied that the high threshold for fraud discussed above has been met in this particular case. While I acknowledge the significant impact this has had on Mr R and the possibility of wrongdoing, the available evidence simply does not allow me to reach such a finding here.

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 R to accept or reject my decision before 4 March 2026.

Stephen Wise
Ombudsman