

The complaint

Mr L is unhappy that Santander UK Plc (“Santander”) won't reimburse him the money he sent to a third-party for what he believed was an investment opportunity.

What happened

I'm not going to cover all the points raised in detail. The view of 17 November 2025 covered the details of Mr L's testimony and listed the transactions at the centre of this in dispute. But briefly around September 2024, Mr L responded to an email he'd been sent from his existing gym (I will refer to as C). The email referred to investment opportunities due to the expansion of C. Mr L knew the owner and after discussing the opportunity with him, Mr L transferred £5,000 on 22 October 2024 to an organisation I will refer to as E.

Mr L was told the investment would be on a loan basis, and he would receive a 20% return on his capital immediately, followed by a 10% (of capital) return monthly for the next 10 months. In addition to this, clients were also promised lifetime memberships. Clients were provided with contracts for their loans.

Mr L subsequently received credits totalling £2,000 between 22 October 2024 and 2 January 2025.

After investing, other investors and gym users like Mr L found out that the gym had closed. People were told that the owners had fled abroad with investors' money.

Mr L complained to Santander that he'd been the victim of a scam. Santander said this was a failed investment so deemed the matter to be a civil dispute. It explained it did intervene and gave scam advice, but Mr L decided to proceed.

Mr L brought his complaint to this service. Our investigator upheld the complaint. He said there was no evidence to suggest the money had been used for the intended purpose. He said the investment was more likely a ruse proposed to generate funds that were intended to be misappropriated by those running the gym/scheme. The investigator considered the complaint under the Faster Payment Scheme Reimbursement Rules (“Reimbursement Rules”) and found that no exceptions to reimbursement applied but that Santander could fairly apply £100 excess to the claim.

Mr L accepted the view. Santander didn't agree. In summary it said: Given this was a genuine company, it wasn't persuaded the bank could have done anything differently. It has no evidence to support the misappropriation of funds. Mr L received returns which doesn't meet the scam MO. Therefore, under Reimbursement Rules it doesn't meet refund regulation. Santander said Mr L acted on information received from another person without carrying out any research. It said it can't be held responsible for the choices he made.

As the complaint could not be resolved informally, it has been passed to me for a 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.

When considering what is fair and reasonable, I'm also required to take into account: relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

Where I can't know for certain what has happened, I need to weigh up the evidence available and make my decision on the balance of probabilities – in other words what I think is more likely than not to have happened in the circumstances.

In broad terms, the starting position in law is that a firm 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. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for firms to reimburse the customer even though they authorised the payment.

The payments concerned were made after 7 October 2024 when the Faster Payments Scheme Reimbursement Rules "Reimbursement Rules" came into force.

The Reimbursement Rules set out the requirements for a payment to be covered and set out the features and definition of an APP scam. The Rules specifically define an APP scam as:

"Where a person uses a fraudulent or dishonest act or course of conduct to manipulate, deceive or persuade a Consumer into transferring funds from the Consumer's Relevant account to a Relevant account not controlled by the Consumer, where:

- *The recipient is not who the Consumer intended to pay, or*
- *The payment is not for the purpose the Consumer intended"*

For me to conclude that Mr L has been the victim of an APP scam, I'd have to be satisfied that C deliberately tricked him into making the payments for an investment it had no intention of providing at the time he made them. And I would need to be satisfied that the C was acting fraudulently or dishonestly to deceive Mr L about the *very purpose* for which his payment had been procured.

Mr L understood his payment was a loan to C, so it could refurbish its studios and expand the business.

I do appreciate there was a genuine looking business at the heart of this and that it had been established for a few years. Santander feels it does not have evidence to support the claim of misappropriation of funds.

I am limited on what I can share from the receiving PSP, but I do note that Santander initially reported the matter to the receiving PSP on 23 January 2025, and the receiving PSP responded on 24 January 2025. It did explain that it had determined the case fell within the scope of the Reimbursement Rules. Whilst it didn't share any further details with Santander - I think it would be highly unusual for it to make such a determination if it didn't have serious concerns about the purpose of the payment. It's possible if Santander had asked at the time – it might have shared relevant information with it.

I also appreciate Mr L received returns. Santander seems to suggest that this means the case doesn't meet the scam 'MO'. Santander also says this therefore, under PSR, doesn't 'meet the refund regulation'. But being in receipt of returns is not a test under the

Reimbursement Rules – that definition has already been set out above.

I do appreciate returns can give the appearance of a genuine investment and so this could be a failed business/investment rather than a scam. But as Santander is aware (for example in Ponzi schemes) money from investors is often used to repay earlier investors or used to pay returns. Returns add a sense of legitimacy to such schemes and encourages other investors to make payments.

I have reviewed the receiving PSP statements and whilst it did pay some returns to its investors, the evidence suggests these were often funded by other investors. Other funds were almost immediately transferred to personal accounts of those involved in this scam. Having reviewed those statements too, there's no evidence to support a finding that the funds received into these accounts were used for the intended purpose of paying for refurbishments or expanding the business. As I've said above, based on its response to Santander at the time of Mr L's claim, it does seem the receiving PSP had concerns about the running of the account.

So overall and on balance I am satisfied Mr L's payment was not for the purpose he intended.

Turning to the investigator's assessment of Mr L's claim under the Reimbursement Rules, I note Santander queried the investigator's suggestion that its detection wasn't sufficient. And given the recipient of the funds was a genuine company it was not persuaded the bank could've done anything different. However, the investigator did not say Santander's detection was insufficient – on the contrary he said he felt it met the standard set out in the Reimbursement Rules. But under the Reimbursement Rules this is not enough. The test for whether the consumer is reimbursed is whether the consumer moved past that intervention with gross negligence.

I note Santander asked, if following the intervention calls, Mr L contacted the company and spoke to them in person. The investigator explained in response that Mr L had contacted the owner during the call. And Mr L has provided us with the messages he had with the owner whilst on the call with Santander. But I think all of this was evident from the call Santander had with Mr L on 22 October 2024. Having listened to the call, around nine and half minutes in Mr L says:

We're there. I'll ask him right now..... you'd would like to know how E and C are linked? they're not gonna let me let me make the payment unless I find this out though?

Santander: *No, not at the minute.*

There is then silence and the consumer then says:

So, he's saying that C is the brand. E is the legal company name, so E is the legal company name he says.

So, this confirms Mr L did ask, and this was the explanation given.

Again – without repeating everything the investigator has said; this was a sophisticated scam and given Santander still appears to be debating whether this is a genuine company rather than a scam, it is difficult to see how it can be argued that Mr L acted with a significant degree of carelessness in moving past the warnings based on what he knew or what was presented to him. Gross negligence is more than a failure to exercise proper skill and care but more a serious disregard of or indifference to an obvious risk. And I simply don't think that was obviously apparent here.

The Reimbursement Rules allow a firm to deduct an excess to each APP scam claim, unless a consumer was vulnerable to a particular APP scam. The maximum excess that can be applied is currently £100. Mr L accepted the investigator's view and hasn't said he was vulnerable to the extent it affected his ability to protect himself from this scam and I have seen nothing to suggest he was. In this case I think Santander would be acting fairly if it deducted an excess, if it chooses to do so.

Santander tried to recover Mr L's money, but none remained by the time the scam was reported, and we know funds were quickly moved on from the beneficiary account once received into the beneficiary account. So I don't think Santander could have done anymore to try and recover Mr L's money.

Putting things right

In order to put things right, Santander UK Plc must pay Mr L:

- The amount to the scam £3,000 – minus the excess of a maximum of £100
- 8% simple interest per year on that amount from the date Santander declined his claim under the Reimbursement Rules to the date of settlement less any tax lawfully deductible

My final decision

My final decision is that I uphold this complaint, and I require Santander UK Plc to put things right for Mr L as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 16 March 2026.

Kathryn Milne
Ombudsman