

The complaint

Mr R complains that Santander UK Plc ('Santander') hasn't refunded the money he lost to an authorised push payment ('APP') investment scam.

Mr R referred the complaint with the help of a representative. However, for ease of reading, I'll refer to Mr R in the main throughout my decision.

What happened

The circumstances of the complaint are well-known to both parties. So, I don't intend to set these out in detail here. However, I'll provide a brief summary of what's happened.

In February 2025, Mr R says he saw an advert for an investment opportunity, which I'll refer to as 'T'. Mr R says that T was supposedly being endorsed by a number of celebrities and this opportunity was of interest to Mr R.

Mr R began communicating with a representative of T and decided to make several investments. Unbeknownst to Mr R at the time, T was a scam. As part of the scam, Mr R made the following payments:

No.	Date	Amount
1	24/02/2025	£1,305.94
2	28/02/2025	£2,000
3	07/03/2025	£5,081.73
4	11/03/2025	£5,612
5	14/03/2025	£2,440

All five scam payments went to the same beneficiary, which I'll refer to as 'F', which is an electronic money institution ('EMI') specialising in foreign exchange.

When Mr R tried to make a withdrawal from T, the communication stopped and Mr R realised he'd fallen victim to a scam. He reported the situation to Santander and asked for a refund of his loss, totalling £16,439.67. Santander considered Mr R's claim, but it didn't think it was responsible for reimbursing him. Mr R made a complaint, but this wasn't upheld by Santander.

Mr R referred his complaint to this service. Our Investigator considered the complaint and recommended that Santander should reimburse 50% of payments 3 to 5, totalling £6,566.87.

However, after considering some new medical evidence from Mr R, they recommended that Santander refund 75% of payments 3-5, totalling £9,850.30. Our Investigator also thought Santander should pay interest on each partially refundable payment from the date of payment until the date of settlement.

Mr R and Santander disagreed with our Investigator's outcome. Neither party thought they should be held responsible for any of the loss. As an informal agreement couldn't be reached, the complaint has 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.

Mr R has made some detailed submissions in support of his complaint. I've read and considered everything he's sent in, but I don't intend to respond in similar detail. 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a firm, like Santander, 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.

There has been some dispute from Mr R's representative as to whether Mr R made the scam payments. However, the evidence shows the scam payments were made using the Santander mobile banking app on Mr R's mobile phone, which required facial recognition technology when accessing the banking app. There's been no suggestion made that Mr R's phone wasn't in his possession throughout the scam. And Santander's confirmed that the banking app can't be controlled by a third party using remote access technology.

As a result, I'm satisfied the scam payments were, most likely, made by Mr R, meaning they were authorised and under the Payment Services Regulations, the starting position here is that Mr R is responsible for the payments (and the subsequent loss) despite them being made as the result of a scam.

Mr R's payments to F were made after the introduction of the Faster Payment Scheme Reimbursement Rules ('Reimbursement Rules'), which came into force on 7 October 2024. The Reimbursement Rules require a Payment Service Provider ('PSP'), such as Santander, to reimburse APP scam victims in all but a number of limited circumstances.

Mr R has provided evidence of the first scam payment he sent to F. His faster payment of £1,305.94 funded the transfer of 1,570 euros to a third party, who's account was located overseas. Mr R hasn't provided similar evidence for the remaining scam payments, and I've seen no evidence to suggest the other scam payments weren't for the same purpose as the first.

So, I think all the scam payments most likely funded subsequent transfers to overseas accounts. Payments of this nature aren't covered by the Reimbursement Rules. So, the Reimbursement Rules aren't a relevant consideration and Mr R isn't entitled to reimbursement of his loss under them.

However, that's not the end of the story. Good industry practice required Santander to be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to warn the customer about the risks of proceeding.

Our Investigator didn't think scam payments 1 and 2 were so unusual or suspicious that Santander reasonably ought to have been concerned that Mr R was at risk of financial harm from fraud when those payments were made. Although the payments weren't typical transactions for Mr R, I'm in agreement with our Investigator that those payments didn't demonstrate a fraud risk to Santander at the time the payments were made.

I don't think the value of the payments alone were large enough to have reasonably given Santander cause for concern. And the payments were made four days apart and so there wasn't a rapid movement of funds. As a result, I don't think a suspicious pattern, indicative of fraud, had emerged.

Santander asked the purpose of both payments. Mr R selected "*Anything else*" for payment 1 and then "*Transfer to own account*" for payment 2. He selected these instead of the more relevant "*Transfer to an investment*" option. Mr R was asked some automated questions relevant to the options he selected, and his answers didn't identify any cause for concern. As a result, Santander processed the payments.

In the circumstances, I'm satisfied Santander's response was proportionate to the risk demonstrated by the payments. As a result, I'm not persuaded that Santander reasonably could've prevented the payments being made and so I don't consider it would be fair to hold Santander responsible for the loss caused by those two payments.

Payment 3 was significantly more than the previous two payments, taking the total sent to a relatively new payee to almost £8,500 within less than two weeks. It was out of character for Mr R to be making several large payments, within a short period of time and payment 3 marked a noticeable change in how Mr R was using his account. I think Santander reasonably ought to have had concerns that Mr R was at risk of financial harm through fraud. In those circumstances, I think it would've been appropriate for Santander to have asked Mr R some questions.

Santander did ask Mr R why he was making the payment and he chose the "*Anything else*" option. Santander did ask some questions relevant to this payment option. However, these were automated questions, and, in the circumstances, I think more detailed questions ought to have been asked through human intervention.

I can't say for certain what would've happened if Santander had spoken to Mr R (because it didn't discuss the payment with him). So, I must consider whether the available evidence shows that it is more likely than not that Mr R would've acted differently in response to human intervention.

Mr R did provide inaccurate answers when he selected the purpose of all the scam payments. He's explained that he was receiving coaching from the scammer on what options to choose. When four of the scam payments were made, Mr R also confirmed that no third parties had told him to mislead Santander, which wasn't correct. So, it's possible that Mr R may have attempted to give Santander further inaccurate answers if Santander had spoken to him verbally.

However, I think there is a distinction to be made between selecting an inaccurate answer on a mobile banking app and giving verbally inaccurate answers when questioned through human intervention. I appreciate that Mr R had been the victim of a scam approximately one year before the scam with T. During that scam, Santander did speak to Mr R about some of the payments he made, and he gave a mixture of accurate and inaccurate answers. When the first payment was made, he confirmed that the transaction was being made for the purposes of an investment and so I think it's possible that he would've been truthful if questioned about the first payment to T.

Even if he hadn't been truthful with Santander, I don't think Mr R would've been able to give a convincing and plausible explanation for why he was sending a large amount to a foreign exchange service. Mr R doesn't appear to have known that his funds were going to a foreign exchange service and so I think it's highly unlikely that any cover story he may have been provided by the scammers would've stood up to scrutiny. And so, I think it's more likely than not that the scam would've been identified through human intervention.

I appreciate that when answering the automated questions, Mr R provided inaccurate answers, and he did this several times. However, at the time, Mr R thought T was a legitimate investment opportunity and so I have little reason to doubt he wouldn't have been honest about why he was making payment 3.

Santander has argued that it did intervene through human intervention when Mr R was scammed previously and this didn't deter him from going ahead with those scam payments. So, Santander doesn't think human intervention would've worked when Mr R was scammed by T, as it thinks similar warnings and scam education are unlikely to have resonated with him. However, I'm not persuaded by Santander's argument here.

Santander would've known that Mr R had previously fallen victim to an investment scam and might be more susceptible to financial harm. Mr R has also explained that after falling victim to the first scam he was feeling ashamed and he's provided medical evidence which suggests that the stress he felt afterwards may have been a direct cause of him suffering two strokes.

So, whilst I accept Mr R had fallen victim to a similar scam, I think if Santander had questioned him and discussed the common hallmarks of investment scams, I think it's unlikely that he would've chosen to continue making further payments and the subsequent loss to T could've been avoided.

The investment had been, supposedly, endorsed by multiple celebrities, one of which has confirmed publicly that they don't endorse investments as their name is frequently used by scammers. Mr R hadn't been given access to an online platform to see how his investment was performing. T wasn't authorised and regulated by the Financial Conduct Authority. If these common hallmarks of an investment scam had been set out by Santander, I think Mr R would've been able to identify that he was falling victim to another scam and, given the impact the first scam had on him, I'm persuaded he would've likely stopped. As a result, I think Santander can fairly be held responsible for Mr R's loss from payment 3 onwards.

Whilst I consider Santander could've prevented part of the scam and can be held responsible for Mr R's loss from payment 3 onwards, I must also consider whether Mr R's own actions have contributed towards the loss and whether it would be fair to hold him partially responsible for the loss as well. So, I've considered whether Mr R has been contributorily negligent and whether he can fairly be held responsible for his loss from payment 3 along with Santander.

Mr R argues that as a result of the first scam, he suffered two strokes, which had a negative impact on his health, including (according to his family) cognitive decline involving memory loss. So, he thinks it would be unreasonable for him to be deemed contributorily negligent. Mr R has provided a medical report from a consultant in emergency medicine, who concluded that in their opinion, Mr R should not be considered to have been contributorily negligent when falling victim to T's scam, as he'd been traumatised and stressed by the first scam and the impact of Mr R suffering two strokes neutralised his ability to recognise that T was scamming him. The medical expert also concluded that Mr R is a vulnerable person.

I've carefully considered Mr R's arguments and supporting evidence for why he doesn't think he should be held responsible for his loss from payment 3. Whilst I don't intend to trivialise the impact the first scam had on Mr R's health; I'm not persuaded that it would be unfair for Mr R to be held partially responsible for his loss.

Whilst the medical evidence refers to Mr R as a vulnerable person, there are many reasons why someone could be deemed vulnerable which wouldn't prevent them from falling victim to an investment scam. Although Mr R's family have reported that his memory has deteriorated, it seems clear to me that he hadn't forgotten about the first scam. And, as I understand it, the two scams shared several similarities. So, despite Mr R's health complications, I don't think it would've been unreasonable for him to have identified that there were red flags about T's investment opportunity.

I'm also not persuaded that it would've been unreasonable for Mr R to have carried out some checks on T to ensure it was a legitimate investment opportunity. Again, I've taken into consideration the medical evidence that describes Mr R as being unable to recognise he was being scammed. However, I'm also mindful that the medical expert has described Mr R as an "*intelligent and interactive gentleman*". To my knowledge, Mr R still lives alone, unassisted, and remains in control of his financial affairs. As a result, I'm not persuaded Mr R was completely unable to protect himself from the scam and I'm not of the opinion that it would be unfair to hold him partially responsible for his loss from payment 3 onwards. So, I've considered how responsibility should be split between Santander and Mr R.

Our Investigator thought Mr R should be held 25% responsible for his loss from payment 3 onwards. Taking into consideration what's happened here, I'm satisfied that's a fair outcome. I accept that Mr R's circumstances made him less able to protect himself from the scam. However, I'm not satisfied he was completely unable to recognise the similarities to the first scam or carry out suitable checks on T before investing and then continuing to invest. But I do think his health and the impact of the strokes will have made him more susceptible and therefore I don't think he should be held equally responsible with Santander for his loss from payment 3 onwards.

I'm also mindful that Santander was aware that Mr R had been the previous victim of an investment scam. He was in his 80s and making payments (to T) that were out of character for his use of the account, yet Santander failed to speak to him and to identify the scam. As a result, I find that Mr R and Santander shouldn't be held equally responsible for what's happened. In such circumstances, I think it's fair that Santander is held more accountable and Mr R's responsibility for the loss should be limited to 25% from payment 3 onwards, with him taking full responsibility for payments 1 and 2.

The payments to F went to a genuine merchant and likely facilitated the onward transfer of funds to third parties based overseas. As a result, it's extremely doubtful that any funds would've remained with F to be returned to Mr R once Santander was aware of the scam. As a result, I'm not persuaded Santander could've done anything to recover Mr R's funds from the receiving account.

Putting things right

To resolve the complaint, Santander should:

- refund 75% of payments 3 to 5, totaling £9,850.30; and
- pay interest, at 8% simple per annum, on each partially refunded payment, from the date of payment until the date of settlement.

My final decision

For the reasons explained above, my final decision is that I uphold this complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 20 March 2026.

Liam Davies
Ombudsman