

The complaint

Mr R complains that Santander UK Plc ('Santander') won't refund the money he lost after falling victim to a scam.

What happened

In 2022, Mr R noticed adverts about cryptocurrency investments. Looking online, he found an advert for a company I'll refer to as V. The advert was endorsed by a high-profile person. V told Mr R that they could help him trade in cryptocurrency and that he would be given a broker/account manager. Mr R was told to open an account with an Electronic Money Institute (EMI) and a trading account with V.

Mr R says he looked online and saw positive reviews for V, so he decided to invest.

Initially he made a payment of £250 from an account held with another bank. After his investment showed a profit, and following prompting by the account manager, Mr R made further payments to increase his investment.

These are the payments that Mr R made from his Santander account.

Date	Pmt	Details of transaction	Amount
14.3.2022	1	Payment to an account in Mr R's name	£2,500
21.4.2022	2	Payment to an account in Mr R's name	£4,700
29.4.2022	3	Payment to an account in Mr R's name	£4,000
10.5.2022	4	Payment to an account in Mr R's name	£6,700
23.5.2022	5	Payment to an account in Mr R's name	£5,000
2.6.2022	6	Payment to an account in Mr R's name	£7,000
5.6.2022	7	Payment to an account in Mr R's name	£6,000
6.6.2022	8	Payment to an account in Mr R's name	£6,500
7.6.2022	9	Payment to an account in Mr R's name	£6,000
8.6.2022	10	Payment to an account in Mr R's name	£6,500
22.6.2022	11	Payment to an account in Mr R's name	£6,500
22.6.2022	12	Payment to E – an individual	£3,312
22.6.2022	13	Payment to an account in Mr R's name	£6,500
22.6.2022	14	Payment to an account in Mr R's name	£5,000

When Mr R tried to withdraw his investment, he was told that he would have to pay fees, and he realised that it was a scam.

Using a professional representative, Mr R reported the fraud to Santander and asked them to refund him. Santander refunded 50% of payment 12 under the Contingent Reimbursement Model Code (CRM Code), saying they hadn't met the standards set for them, but Mr R didn't do enough checks on V. For the remaining payments, Santander say as the loss didn't occur when Mr R moved the money from his Santander account, they're not liable for the loss.

Mr R wasn't happy with Santander's response, so he brought a complaint to our service.

An investigator looked into Mr R's complaint and partially upheld it. The investigator felt Santander should've refunded 100% of payment 12, as they felt Mr R had a reasonable basis for believing the investment was genuine. For the remaining payments, the investigator was satisfied that Santander had intervened appropriately and weren't liable.

Both Mr R and Santander disagreed with the investigator's opinion and asked for an ombudsman to review the case.

Having reviewed the case, I reached a different answer than the investigator. So, I issued a provisional decision explaining why and giving both parties a chance to respond before a final decision was issued.

My provisional decision

In my provisional decision "What I've decided and why" section I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that Santander is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account. It's not in dispute that Mr R authorised these payments, although he did so not realising he was the victim of a scam.

Payment 12 – covered by the CRM Code

As payment 12 was made to an account not in Mr R's name, it is covered by the CRM Code. The CRM Code requires firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that an exception applies. In this case Santander say Mr R made the payment without having a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.

I'm satisfied that Santander can rely on this exception to reimbursement because:

- Mr R says he made payment 12 "to transfer the investment from America and for it not to be associated with money laundering" and that the funds would be returned to him along with his investment. But it's unclear why Mr R would have to pay an individual if he was dealing with a genuine business. A normal investment company wouldn't have requested a payment to a private individual.
- At the point Mr R made payment 12, he hadn't been able to withdraw any of his investment, which should've concerned him. His investment account manager/broker had also encouraged him to take out loans. No legitimate investment would

recommend a customer borrowing in this way, especially when they couldn't afford the loan repayments.

As Mr R doesn't have the chats he had with the scammer, it's difficult to know exactly what was discussed. Especially as Mr R doesn't have a clear recollection of all the facts, which isn't surprising considering this happened over three years ago.

But, based on the evidence, I'm not satisfied that I can fairly say Mr R had a reasonable basis for believing that the person he was paying was legitimate or that he was paying them for a legitimate reason in relation to payment 12.

Santander have accepted they didn't meet the standards set for them under the CRM Code and have refunded 50% of this payment. This is the most that Mr R would be entitled to as I'm satisfied that an exception to reimbursement applies.

The rest of the payments – not covered by the CRM Code

As the remaining payments were made to accounts in Mr R's name, they aren't covered by the CRM Code.

There are, however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Santander also has a duty to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customer's accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Santander say that they detected payments two and three as unusual, and Mr R was presented with dynamic warnings onscreen. They also say they called Mr R for the payment made on 29 April 2022, but due to the time that has passed, they don't have a copy of the call recording.

For payment one, Santander asked the reason for the payment onscreen, and Mr R said it related to "paying for a service". When he made payment two, he was again asked the reason onscreen and said it related to "buying goods online".

I'm satisfied that Santander took appropriate steps in relation to payments one and two by asking the reason for the payment and providing an onscreen warning.

However, I'm not satisfied that I can fairly say Santander's intervention on payment three was appropriate – because there is no record of what was discussed. Santander would only have called if they had identified an APP scam risk. As part of their call with Mr R, Santander should've asked open and probing questions about the payment he was making. This shouldn't be just a single question about the purpose, rather an exploration of the ultimate destination of the funds, why Mr R was transferring funds from his Santander account to another account and not sending it directly to a merchant or supplier (if he said it was for goods or services).

If Santander had asked probing questions, I think it's more likely than not that Mr R would've told them that he was investing. In response, I would've expected Santander to ask questions like how he found the investment, what company he was investing with, any

checks he'd done on the investment, the return he was expecting or what he understood the investment to involve and whether anyone was helping with the investment.

There is nothing to indicate that Mr R wouldn't have been honest with Santander. If he had told them that he found the investment online and that it was endorsed by a high-profile individual, Santander should've been concerned that it was likely Mr R was the victim of an investment scam. It's likely that it may've come out as part of the questions that Mr R had been asked to download screen sharing software and he had a broker/account manager helping him. All of these are key features of an investment scam.

So, had Santander asked the type of questions I would've expected when they called Mr R to discuss payment three, I think it's more likely than not the scam would've been uncovered.

If Santander had explained how investment scams work to Mr R and why they believed he was the victim of a scam, I think it's more likely than not Mr R wouldn't have proceeded with making the payment and his loss would've been prevented from payment three onwards. Mr R was using his life savings to invest, so I'm satisfied that a quality investment scam warning would've resonated with him.

On that basis, I'm satisfied that Santander should refund from payment three onwards. But I also have to consider whether Mr R could've mitigated his loss and should share responsibility with Santander.

Santander wasn't the point of loss

Santander say as the loss occurred from Mr R's accounts held with other banks or EMI's, they aren't liable. I have taken into account that Mr R remained in control of his money after making the payments from his Santander account. It wasn't lost until he took further steps.

But Santander should still have recognised that he was at risk of financial harm from fraud (which they said they did) and asked open and probing questions as part of their call on the third payment. For the reasons given above. I'm satisfied that Santander could've prevented Mr R's loss from that point. So, I'm satisfied that Santander can fairly be held responsible for Mr R's loss in such circumstances.

Should Mr R share responsibility for his loss with Santander?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

Mr R says that he looked at V's website and saw positive reviews online on a prominent ratings website. I'm also conscious that Mr R believed the investment was endorsed by a trusted and high-profile individual, who he didn't believe would recommend an investment they hadn't researched. Also, Mr R wasn't aware that adverts posted online aren't reviewed or vetted for legitimacy by the platform they're advertised on.

Based on the information available to Mr R at the point he made payment three, I'm satisfied that he took reasonable steps to ensure that the investment was legitimate given his knowledge and experience in investing.

However, I think Mr R should've been concerned and completed further checks before making the payments from 22 June 2022 onwards. I say this as the last payment made as part of his investment was on 8 June 2022. When Mr R tried to withdraw his investment after this payment, he was told that he had to pay fees and charges to release his funds. The scammer also recommended that Mr R borrow money.

As Mr R hadn't been able to withdraw any of his investment and there was no indication that any of these fees would be payable when he set up the investment, Mr R should've been concerned at being asked to send additional funds in order to release his investment. So, I'm not satisfied that he took reasonable steps to mitigate his loss before making the payments from 22 June onwards. On that basis, I'm satisfied that it's fair for him to share responsibility for his loss on payments 11, 13 and 14, and reduce the refund on those payments by 50%.

As Mr R has been deprived of the use of these funds, Santander should pay simple interest of 8% per year on the payments they refund (excluding the CRM payment which they've already refunded). The interest should be calculated from the date of each payment to the date of settlement.

My provisional decision was that I intended to uphold this complaint and ask Santander to: refund 100% of payments three to 10 (inclusive), refund 50% of payments 11, 13 and 14, and pay simple interest of 8% on the refund.

Responses to my provisional decision

Mr R responded to say he accepted the provisional decision.

Santander however disagreed with the provisional decision. Santander say, while they don't have a copy of the call recording, they have a script that would've been used when their staff member called Mr R to discuss his payment on 29 April 2022. Santander say if they had any concerns about the answers Mr R gave during the call, they wouldn't have allowed the payment to go through.

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.

Having considered the points Santander has raised, I've reached the same answer as in my provisional decision. I'll explain why.

The script that Santander have provided, starts by asking the reason for the payment. It then asks the advisor to identify if the payment is being made to a specific cryptocurrency exchange. If it is, they are to tell the customer that they are no longer allowing payments to that exchange.

It says that if the payment isn't going to that exchange, to provide certain warnings. One of these warnings says:

Customers are being enticed by promising high returns on investments in crypto asset or crypto asset-related products. In some cases, customers are helped by the criminals to set up online accounts/wallets with the firms, this may be verbally over the phone, or by the customer allowing access to their computer or device.

Customers are shown fake evidence of returns on their investment to encourage more funds to be sent.

Many cryptocurrency investments are not authorised by the FCA and so customers should proceed very cautiously with any unregulated companies.

This could be a scam and you should not continue to make payments if any of the following apply:

- You've been asked to set up an online investment account or wallet while someone is connected to your device....*
- You've been promised returns that could be too good to be true or told the risks are low.*

The customer is then advised to use the FCA website and scamsmart tool.

Santander is assuming that this script was read to Mr R but doesn't have any evidence that it was. It also doesn't have any record of what questions Mr R was asked and what answers he gave.

This warning doesn't address or explain that high-profile celebrities can be manipulated by AI to make it appear they're endorsing an investment when they're not. Also, the warning doesn't explain that adverts online aren't vetted or checked for legitimacy by the site they're advertised on.

This script doesn't ask the type of open and probing questions that I would expect during a call where an APP scam risk has been identified, as is the case here. It involves a Santander staff member giving a lot of information to the customer, with little engagement.

Santander say they would've asked questions, but they don't have any evidence that they did. I'm not satisfied that reading this script out to Mr R would've have resonated with him or that it was sufficient in these circumstances. It says that it may be a scam but doesn't explain that his circumstances mirror well known scams and it's more likely than not the investment isn't genuine.

Santander say if they had any concerns they wouldn't have allowed the payment to go through. But if Santander had asked open and probing questions, like those set out above in my provisional decision, I'm persuaded that it's more likely than not the scam would've been uncovered. I say this as Mr R's circumstances mirror the key features of cryptocurrency investment scams which Santander as the expert in this interaction should've been aware of.

On that basis, I'm still satisfied that better intervention by Santander when Mr R made payment three would more likely than not uncovered the scam and prevented his loss. So, Santander should refund Mr R from payment three to payment 14, excluding payment 12, as Santander have already refunded as much as I would've recommended under the CRM Code for that payment.

As neither party have provided any new evidence or arguments as to whether Mr R should share responsibility for his loss with Santander from payment three onwards, I see no reason to reach a different conclusion or change the apportionment with Santander refunding 100% of payments three to 10 and 50% of payments 11, 13 and 14.

Putting things right

To put things right I require Santander UK Plc to:

- Refund 100% of payments three to 10 (inclusive).
- Refund 50% of payments 11, 13 and 14.
- Pay simple interest of 8% per year on the refunds, calculated from the date of each payment to the date of settlement.*

*If Santander considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give Mr R a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint against Santander UK Plc and require them to compensate Mr R as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 February 2026.

Lisa Lowe
Ombudsman