

The complaint

Mr B and Mrs B complain that Santander UK Plc (Santander, hereinafter) hasn't refunded the losses they've incurred when falling victim to an investment scam.

What happened

The facts are well known to both parties, so I have outlined the key details. In summary, Mr B says he found an investment opportunity online involving cryptocurrency, allegedly endorsed by a notable celebrity, on or around September 2024. Unbeknown to Mr B, this was sadly a scam.

Mr B was persuaded by the scammer to move all of his savings, as well as apply for some loans to fund the scam via his Santander account. They directed him to open a wallet with a renowned cryptocurrency provider I'll refer to as F, through which he then sent the funds to them.

From his Santander account Mr B made 17 faster payments to top up his account with F, totalling £331,550 between 24 September 2024 and 9 January 2025. Mr B realised he had been scammed when, having ran out of money, the scammer continued to demand more funds in order to release his investment, at which point he showed the scammer's correspondence to his son.

Santander refused to refund Mr B on the basis his account activity wasn't suspicious enough to highlight he may be falling victim to a scam and that it intervened appropriately by blocking and querying some of the payments. It also said the point of loss was ultimately F, and so Mr B should direct his complaint to F.

So, Mr B referred a complaint to the Financial Ombudsman Service.

Our Investigator found that Santander should have intervened when Mr B made payments 2 and 3 to his cryptocurrency wallet with F, amounting to, respectively, £5,000 and £9,900.

They said Santander should have intervened on payment 2 with a tailored automated warning, but they didn't think that would have successfully unveiled the scam.

However, they said payment 3 was unusual enough to require Santander to block it and have one of its fraud specialist call Mr B to discuss it further, and that such intervention would have successfully unveiled the scam. Our Investigator said that Mr B didn't conduct any independent checks on the scam and took the scammer's words at face value, so he should equally share liability with Santander, and a 50% deduction should be applied from payment 3 onwards.

Mr B accepted our Investigator's view. But Santander disagreed, arguing that the account activity was ultimately in line with previous genuine spending from the account, and that it wasn't possible for Santander to know the payments were being made to a cryptocurrency provider.

It added that Mr B's losses stemmed from his account with F, so Santander shouldn't be held liable, and, that, in any event, even if it had intervened further, Mr B would have likely continued to mislead it as to the reason for the payment and the scam would not have been unveiled.

In light of this disagreement, I have been asked to review everything afresh and reach a decision on the matter.

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'm 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 focused 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'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.

Where the evidence is incomplete, inconclusive, or contradictory, I must make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I don't doubt Mr B has been the victim of a scam here – he has lost a large sum of money and has my sympathy for this. However, just because a scam has occurred, it does not mean Mr B is automatically entitled to recompense by Santander. It would only be fair for me to tell Santander to reimburse Mr B for his loss (or a proportion of it) if:

- I thought Santander reasonably ought to have prevented all (or some of) the payments Mr B made, or
- Santander hindered the recovery of the payments Mr B made

whilst ultimately being satisfied that such an outcome was fair and reasonable for me to reach.

I've thought carefully about whether Santander treated Mr B fairly and reasonably in its dealings with him, when he made the payments and when he reported the scam, or whether it should have done more than it did.

Having done so, I've decided to uphold Mr B's complaint, and for broadly the same reasons as our Investigator. I'll explain why.

Should Santander have intervened and would it have made a difference?

I have kept in mind that Mr B made the payments himself, and the starting position is that Santander should follow its customer's instructions. So, under the Payment Services Regulations 2017 (PSR 2017) he is presumed liable for the loss in the first instance.

I appreciate that Mr B did not intend for his money to ultimately go to fraudsters and was deceived into doing so – but he did authorise these payments to take place. However, there are some situations when a bank, should have had a closer look at the wider circumstances surrounding a transaction before allowing it to be made.

And I've given serious consideration to Santander's argument that banks generally have a contractual duty to make payments in compliance with the customer's instructions, as the Supreme Court has recently reiterated in *Philipp v Barclays Bank UK PLC*.

In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks when making payments. Among other things, it said, in summary:

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, the bank must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.
- The express terms of the current account contract may modify or alter that position. For example, in *Philipp*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a duty to do so.

In this case, Santander's terms and conditions gave it rights (but not obligations) to block payments if it suspected criminal activity on a customer's account or if it were protecting them from fraud. The terms and conditions explain if Santander blocks a payment, it will let its customer know as soon as possible, using one of its usual channels.

So, the starting position at law was that:

- Santander was under an implied duty at law to make payments promptly.
- It had a contractual right not to make payments where it suspected criminal activity.
- It could therefore block payments, or make enquiries, where it suspected criminal activity, but it was not under a contractual duty to do either of those things.

Whilst the current account terms may not oblige Santander to make fraud checks, I do not consider any of these things (including the implied basic legal duty to make payments promptly) precluded Santander from making fraud checks before making a payment.

And, whilst Santander was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good practice at the time, it should fairly and reasonably have been on the look-out for the possibility of APP fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including Santander, do.

So, overall, considering the relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time – Santander should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which payment service providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken

additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

- Have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so.

So, I've thought about whether the transactions should have highlighted to Santander that Mr B might be at a heightened risk of financial harm due to fraud or a scam. I think the first payment to the scam was too low value to require any intervention from Santander.

However, payment 2 was the first payment of a significant value going to an identifiable cryptocurrency provider, and Mr B had never made a payment related to cryptocurrency in the past.

Santander argued that it couldn't know that the payments were going to an identifiable cryptocurrency provider, F, as its systems only showed the funds were destined to an account number and sort code serviced by a bank account provider that provides banking facilities to F, that I'll refer to as Bank C. Since Bank C offers such facilities to many payment service providers, Santander said there was no way of knowing Mr B was paying an identifiable cryptocurrency provider.

I'm afraid I can't accept this argument. It's widely known and accepted in the industry that payments involving cryptocurrency can carry higher risks than other types of payments, with millions of pounds having been lost by UK customers via cryptocurrency payments to scammers in recent years.

Therefore, due to the prevalence of scams involving cryptocurrency payments, I think it would be reasonable to expect Santander to have been on the lookout and monitor its customers' accounts against the risks associated with those payments, by the time these events took place in September 2024.

And such monitoring should include developing and implementing auditing and fraud detection systems able to capture whether a customer's payment is going to an identifiable cryptocurrency provider, which many banks have embedded in their fraud prevention tools.

I think Santander should have clearly classified Mr B's payments as going to an identifiable cryptocurrency provider. I say this because F is one of the most established and well-known cryptocurrency providers offering services to UK customers.

Moreover, Bank C doesn't offer services directly to retail customers either, so I think it fair to expect Santander to know that, when a payment is going to Bank C, it's ultimately destined to a third-party institution using Bank C's facilities to receive the payment, which could well be cryptocurrency related.

Having reviewed the evidence around whether Santander knew or ought to have known that the payment Mr B was making on 26 September 2024 was heading to F, I've also taken into account that the auditing information Santander sent to our service refers to F and not Bank C as the beneficiary. Moreover, having listened to Santander's intervention on 8 October 2024, when the fraud specialist asked Mr B to confirm who the beneficiary was, they asked him if he was using Bank C for the "crypto side of things".

Furthermore, the sort code Mr B paid is clearly linked to F. So, I've come to the conclusion that, on a balance, Santander had sufficient information available to it to detect Mr B was making payments to an identifiable cryptocurrency provider on 26 September 2024.

I agree with our Investigator that issuing a tailored written warning would have been a proportionate intervention from Santander at this stage, and I also agree that such warning would have unlikely unveiled the scam. I've come to this conclusion after having read Mr B's testimony and having listened to his calls with Santander.

These documents and recordings evidence that Mr B relied strongly on the guidance of the scammer. Mr B was an elderly consumer at the time of the scam, and he'd never used cryptocurrency wallets before. He was fearful of not complying with the scammer's instructions due to the anti-money laundering and compliance reasons the scammer had made up, and so he let the scammer guide him every step of the way, for fear of being in breach of financial regulations. This led to Mr B misleading both Santander and loan providers as to why he was making these payments or needing to borrow funds.

Due to this evidence, I'm persuaded that, more likely than not, if Santander had asked Mr B to confirm the reason for his payment through an in-app questionnaire, Mr B would have resorted to the scammer's advice to ensure the payment went through, even if that entailed misleading the bank.

So, I can see how a tailored warning intervention wouldn't have unveiled the scam.

However, I'm of the opinion that Santander should have intervened again on payment 3, by blocking it and having one of its fraud specialists call Mr B to explore the reasons for his payment further. This is because the pattern of payments showed a doubling in value from the earlier payment, with about £15,000 being sent to a cryptocurrency wallet over six days.

Would Santander's human intervention have prevented Mr B's further losses?

Santander has argued that a proportionate human intervention by payment 3 wouldn't have unveiled the scam, due to Mr B having been coached on what to say by the scammer. I've considered this point carefully and I can't agree with Santander. I'll explain why.

Having reviewed the call recordings of the interactions between Mr B and Santander, it's indisputable that Mr B was coached and gave a cover story to Santander to get it to process the payments to F. The cover story was consistent throughout the several fraud detection phone calls that took place between September and December 2024, with Mr B confirming he had recently opened an account with Bank C, for the purpose of "tiding up his savings", and he wasn't planning on moving the money onward from there.

Mr B's cover story may have been consistent, but it was far from plausible. And, whilst I accept that Santander did warn Mr B against giving inaccurate reasons for his payments, I think there were enough clear red flags that the Santander's fraud specialists should have identified when interacting with Mr B.

In the phone call of 8 October 2024, for example, Mr B told Santander he was looking to send the money to Bank C for savings purposes. But this reason couldn't have made much sense, since, as I've explained above, Bank C is a renowned clearing bank that doesn't offer any services to retail customers. So, Mr B couldn't have opened a savings account with Bank C, because that product simply doesn't exist, and I'm fully persuaded the Santander's fraud specialist should have known that.

Mr B proceeded to confirm nobody recommended the account to him, to then contradict himself a moment later, stating that a "friend" had suggested it to him. At this point, I think it would have been reasonable to expect Santander to recognise this as a red flag, as

scammers are often cited by their victims as “friends”, and this is widely known in the industry.

Mr B then proceeded to confess he hadn’t conducted any due diligence on Bank C.

All of the above, combined with the fact Mr B was sending money to a cryptocurrency wallet with F, and funding these payments by taking money out of his ISA accounts, should have indicated to the Santander’s fraud specialist that Mr B may be falling victim to a scam.

Santander is very familiar with the fact many scam victims are coached by scammers on how to circumvent fraud detection interventions. So, I think all the above answers and fraud indicators, coupled with Mr B’s elderly age, should have raised enough concerns with the fraud specialist to probe Mr B’s answers further.

Instead, I found that opportunities were clearly missed during that intervention call, and the following ones, as the fraud specialist continued to ask leading questions to Mr B such as “you’re not using the crypto side of things?” or “the money isn’t moving anywhere from Bank C, right?” instead of challenging Mr B to explain why he was thinking he was tidying up his savings by sending high value payments to a cryptocurrency provider.

So, I believe that, had Mr B been challenged appropriately about what he was doing, his cover story would not have held up to scrutiny. And, given Mr B’s lack of cryptocurrency knowledge, I don’t think he could have satisfied Santander that his payments were for legitimate purposes.

It follows from the above that, as the cover story would not have held up to scrutiny during a fraud detection call, Santander ought to have asked Mr B to attend his local branch with the relevant documentation about his savings account to ensure he wasn’t being scammed.

I must consider that Mr B realised he’d fallen victim to a scam after showing the scammer’s documents to his son. And the evidence available doesn’t support a finding that, most likely, Mr B would have proceeded to make payments to the scammer, even after being told he was falling victim to a scam.

So, I think that, if Mr B had attended his local branch, Santander would have most likely broken the scammer’s spell. And, since we’re aware Mr B heeded his son’s advice, after he told him he had fallen victim to a scam, I think he would have, most likely, heeded the bank’s advice too.

Even in the unlikely event the bank’s advice hadn’t been enough to make Mr B realise he was falling victim to a scam, I think at that point Santander would have been under a duty to invoke the Banking Protocol and inform the police and Mr B’s family of what was happening.

And, based on what we know about Mr B’s approach to authority and his relationship with his son, I’ve found that such intervention would have, on the balance of probabilities, prevented Mr B’s further losses.

On the basis of the above findings, I’m satisfied it’s fair and reasonable for Santander to refund Mr B for the losses he sustained from payment 3 onwards.

Should Mr B share equal responsibility with Santander?

I’ve thought about whether Mr B should bear any responsibility for his losses. In doing so, I’ve considered what the law says about contributory negligence, as well as what I consider

to be fair and reasonable in all of the circumstances of this complaint, including taking into account Mr B's own actions and responsibility for the losses he has suffered.

I've also taken into account that Mr B has accepted our Investigator's findings on the matter, so I don't need to cover this aspect of the complaint in great detail.

However, for the sake of completeness and clarity of my decision, I'm also of the opinion that Mr B contributed to his own losses by not completing sufficient independent research on the investment before committing a very high amount of money to it.

In particular, I would have expected Mr B to realise something might be wrong with the investment when the scammer advised him to lie to Santander about the purpose of his payments. There's also no evidence Mr B conducted any research or sought second opinions on the investment opportunity before proceeding to transfer his entire life savings to the scammer.

Overall, looking at the circumstances, I think Mr B should have, on the balance of probabilities, realised there was a possibility the situation was not genuine and acted accordingly. As such, it would not be fair to require Santander to compensate him for the full amount of his losses from payment 3 onwards. Weighing the fault that I've found on both sides, I've concluded, on balance, that a fair deduction would be for Mr B to bear 50% of his losses.

Recovery

The payments were made by faster payment to his wallet with F.

Mr B sent the cryptocurrency to the scammer from there. So, Santander would not have been able to recover the funds, as none would have remained in the wallet.

So, I don't think it would be fair and reasonable to conclude that Santander should have done anything more to try and recover Mr B's funds.

Putting things right

To put things right, Santander UK Plc should now:

- Pay Mr B 50% of the payments he made from payment 3 onwards – a total of £163,225.
- Pay 8% simple interest per annum on £163,225 from the date of each payment to the date of settlement*

I consider that 8% simple interest per year fairly reflects the fact that Mr B has been deprived of this money and that he might have used it in a variety of ways.

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

My final decision

For the reasons given above, I uphold this complaint in part and require Santander UK Plc to pay Mr B as I have set out above.

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

Daria Ermini
Ombudsman