

The complaint

Mrs T complains Santander UK Plc trading as Cahoot (“Cahoot”) hasn’t refunded funds she says were lost as the result of a scam.

The payments were made from a joint account Mrs T held with her late husband Mr T. Where appropriate I’ll refer to the late Mr T within this decision as he’s the person who made the disputed payments.

What happened

Both parties are familiar with the circumstances of the complaint, so I’ll only summarise the key details here.

In 2018, Mr T was looking to invest in cryptocurrency and decided to contact a company I’ll refer to as R. He told Cahoot he had previous investment experience of around 20 years, but was looking for a company to trade on his behalf.

Mrs T said Mr T researched R prior to investing and found it registered on Companies House. Mr T had a broker with R and he initially invested £5,000. Mrs T explained Mr T was encouraged to invest greater amounts, he was provided access to a trading platform which showed profits and losses and that Mr T received modest returns.

Between May 2018 and September 2018, Mr T made five payments totalling £500,000. He also received £21,000 in returns.

Mrs T said in 2019, Mr T saw a warning regarding R, which is when he realised he had been scammed.

Mrs T raised a complaint with Cahoot via a professional representative in 2024 which wasn’t upheld. Unhappy with Cahoot’s response, she raised the matter with the Financial Ombudsman Service. One of our Investigators considered the complaint and upheld it in part.

As an agreement couldn’t be reached the complaint has been passed to me for a final decision.

My provisional decision

I issued my provisional decision on 30 January 2026. I decided, provisionally, not to uphold this complaint. This is what I said.

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

Mrs T has raised another complaint with us related to an investment Mr T made which I am aware of, where necessary I’ll comment on evidence provided on that complaint which is relevant to this complaint.

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.

Certain high-risk investment traders may have promoted these products 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, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself, or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

In simpler terms, some merchants may have used sales and promotional methods that could be seen to be unfair by consumers considering the losses they've incurred – but this does not always amount to fraud.

Having looked at all the information available I don't think I have enough to say R was operating a scam. I've taken into consideration the warning on the FCA website which notes R isn't regulated but this doesn't mean it was operating as a scam firm and from what I've seen R didn't claim to be registered with the FCA. Mr T received literature regarding his investments including terms and conditions. He also found R registered on Companies House and received returns, totalling £21,000, which were paid up until the end of November 2018, which is after the FCA warning noting it isn't registered. In December 2018 Mr T asked for his account to be closed and shortly after was told his funds would be available in March 2019. The communication shows R moved this date back several times and I understand Mr T received no further money.

I've also reviewed an email from the police in 2020, which says they are investigating someone who has been involved with handling money from fraud victims and that Mr T made payments into an account the individual had control of. This suggests the funds are possibly linked with fraud, but I've not been provided with further correspondence from the police on the matter.

In any event, even if R was operating a scam, and I'm not saying it was, it doesn't necessarily follow that Cahoot would need to refund the money that has been lost. So, I've considered if Cahoot ought reasonably to have prevented the payments Mr T made.

In broad terms, the starting position at law is that banks and other payment service providers are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

Mr T authorised the payments in question here, so he is presumed liable in the first instance. But as a matter of good industry practice, Cahoot should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: as while banks and Electronic Money Institutions should be alert to fraud and scams to act in their customers' best interests, they can't reasonably be involved in every transaction.

I think the value of the payments ought to have concerned Cahoot but due to the passage of time since the payments it hasn't been able to evidence if it spoke with Mr T prior to processing the payments.

In 2018 when the payments were made, I would have expected Cahoot to have spoken with Mr T about the payments and given him a general scam warning. Given the due diligence Mr T carried out prior to investing along with the paperwork he'd received regarding the investment and finding R on Companies House, I'm not persuaded a warning of this type would have resonated with him or prevented him from making the payments. And I don't believe at the time he made the first four payments further research would have given Mr T information which wasn't available when he carried out his initial checks. I've considered the FCA warning which was posted in August 2018, which is prior to the final payment Mr T made, but as I've explained the warning doesn't say R, are operating a scam rather that it isn't regulated but, from what I've seen, R didn't claim it was. The paperwork Mr T received noted R was registered overseas.

Additionally, I don't think it's likely that Mr T would have checked the FCA register prior to making the final payment. I say this because in November 2018 Mr T raised a scam claim with Cahoot relating to another of his high value investments. At the time he told Cahoot he'd seen an FCA warning noting that firm wasn't registered after he'd made the payments and it doesn't seem this prompted him to check if R was on the FCA register because he continued to communicate with R with no mention of this. It seems Mr T's suspicions came several months after he made the payments and only after he had closed his account and his funds weren't returned as expected in 2019.

So, Cahoot should protect their customers from fraud and scams – by looking out for unusual or suspicious payments and carrying out additional checks before processing them. But, as I've explained, these responsibilities are predicated on there having been a fraud or scam. And given I've concluded that, on balance, these payments weren't made as part of a scam, these responsibilities don't apply here. And even if I thought it were a scam, I don't think Cahoot could reasonably have prevented Mr T from making the payments.

I'm sorry to disappoint Mrs T further, but I've thought carefully about everything that has happened, and with all the circumstances of this complaint in mind I don't think Cahoot needs to refund her money or pay any compensation. I realise this means Mrs T is out of pocket and I'm really sorry she's lost this money. However, for the reasons I've explained, I don't think I can reasonably uphold this complaint.

Responses to my provisional decision

Cahoot accepted the provisional decision and said it had nothing further to add.

Mrs T's representative disagreed with the provisional decision and provided new evidence. In summary they said there is enough evidence to suggest that R was operating a scam by cloning a legitimate firm and that Mr T would have carried out further checks if Cahoot had suggested he do so and discovered it wasn't regulated to conduct managed investment activity.

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 response to my provisional decision Mrs T's representative has provided new evidence which suggests that R was in fact operating a scam but that hasn't changed my decision not to uphold this complaint. I'll explain why.

I should explain that for me to find it fair and reasonable that Cahoot should refund

Mrs T requires more than a finding R was operating a scam or that Cahoot ought to have intervened. I would need to find not only that a scam had occurred, and Cahoot failed to intervene where they ought reasonably to have done so - but crucially I'd need to find that but for this failure the subsequent loss would've been avoided. That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by Cahoot wouldn't have revealed the payments were part of a fraud or scam, then I couldn't fairly hold Cahoot liable for not having prevented them from being made.

In 2018 I would have expected an intervention from Cahoot to broadly cover scams. And I think Mr T would have been able to satisfy Cahoot with his answers. I can't be sure Mr T would have disclosed the firm he was investing with, and Cahoot wouldn't have known it was R unless Mr T said so, as the payments weren't made directly to R. And even if he had disclosed it, I wouldn't have expected Cahoot to research the firm but rather ask Mr T if he'd carried out his due diligence. I don't think he would have carried out further checks into R and even if he did, at the time he made the first four payments I don't believe further research would have given Mr T information which wasn't available when he carried out his initial checks. There's an FCA warning from August 2018 which is prior to the final payment being made that says R isn't FCA regulated but I can't see it claimed to be and the paperwork Mr T received stated R was registered overseas so I don't think it's likely Mr T had any expectations that R was regulated by the FCA.

Mrs T's representative said Mr T realised he had been scammed by another firm, D, when he saw an FCA warning, and that prompted him to check if R was FCA regulated. And being told to check the FCA register would have uncovered the scam sooner. However the evidence doesn't support this. In relation to D, Mr T told Cahoot he was concerned after he didn't receive a dividend as expected and subsequently saw an FCA warning for D. This was in November 2018. Mr T continued to communicate with R for several months after this and there was no mention of him having discovered that R wasn't FCA regulated and I think on balance, if he had found that out and found it to be concerning, he would have raised it with R. This also isn't supported by the witness statement provided which states Mr T realised R wasn't regulated with the Gibraltar Financial Services Commission as part of his investigation, it seems this was after all payments had been made. Or by his communication with the FCA where he says he thought it was a scam as his funds hadn't been returned after he closed his account.

On balance, I think the due diligence Mr T carried out prior to investing along with the paperwork he'd received would have reassured him such that a warning from Cahoot as I've described wouldn't have resonated with him or prevented him from making the payments. Therefore, it wouldn't be fair or reasonable for me to hold Cahoot liable for the losses.

My final decision

For the reasons explained, and in my provisional decision, I do not uphold this complaint against Santander UK Plc trading as Cahoot.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 20 March 2026.

Charlotte Mulvihill
Ombudsman