

## **The complaint**

The estate of Mrs T complains that Santander UK Plc allowed the late Mrs T to carry out gambling transactions on her account which they should have identified and prevented. The estate of Mrs T wants the gambling transactions, and any associated charges, refunded.

## **What happened**

This complaint is brought by Mr J, who acts on behalf of the estate of the late Mrs T. The facts of the complaint are well known to both parties, so I will only provide a summary of the key points.

The late Mrs T and Mr J held a current account with Santander, which was opened in 1994.

On the passing of the late Mrs T, Mr J reviewed paperwork and contacted Santander, explaining he was unaware the current account had been set up in joint names. Mr J also raised the following concerns:

- The late Mrs T only received £675 a month from her pension, so the other credits to the account should've prompted Santander to take action.
- The account had excessive gambling transactions. Santander should've realised the late Mrs T had a problem and placed a block on her account.

Santander reviewed the complaint, and explained:

- Credits to the account were regularly received, some of which were from another account Mr J and the late Mrs T held. There was no reason for these credits to be flagged as unusual.
- The numerous gambling transactions took place when the account was operating within its means and the late Mrs T had the necessary funds available. When the account was overdrawn, it was always promptly brought back into credit.
- The late Mrs T didn't inform Santander of any issues she had with gambling and Santander wasn't required to block such activity.

As part of its review Santander cleared the remaining charges on the account, which left it with a credit balance. Mr J has since closed the account.

Mr J remained unhappy with Santander's review and still believed it should've done more when managing the account. Mr J referred the complaint to this service. One of our investigators looked at this complaint and found that Santander had acted fairly when managing the account, and it didn't need to compensate the estate of Mrs T.

Mr J remained unhappy, so the matter was escalated to an ombudsman for a final 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.

Firstly, I must clarify that my decision will focus on the impact the issues have had on the late Mrs T and now the estate of Mrs T. This means the impact on Mr J, who brings the complaint is not within my remit. I will also not be commenting on the opening of the account, as this has been dealt with separately.

However, I must acknowledge the impact the circumstances have on Mr J, who represents the estate of Mrs T. I appreciate this has been a difficult and upsetting time, and I'm sorry to hear of the situation Mr J has been in and the effect on his finances. But, in deciding this complaint, I have to focus on the impact on the eligible complainant – which here is the late Mrs T and her estate.

While I've considered all that Mr J has told us and sent us about this situation – I have to acknowledge that the late Mrs T can't provide answers to questions here or any testimony herself. This limits how much I can know about the underlying situation here. So I've based my decision on what information I do have. Based on this, I don't think Santander has acted unfairly and that it should compensate the estate of Mrs T. I'll explain why.

#### *Account activity*

Mr J says Santander should've questioned the credits into the late Mrs T's account and asked questions around the source of the funds. He says Santander made no effort to verify the transactions on the account and it failed to meet basic regulatory requirements. In particular it should've been aware the late Mrs T only received a pension of £675 a month so the other credits to the account should've been questioned to ascertain their source.

It's not in dispute that Santander had a general obligation to monitor the account. And just like many other banks, Santander will use various tools and technology to spot signs of unusual activity. But that has to be balanced against the fact that customers will use accounts differently and what's unusual for one person may not be unusual for another.

So I've looked at the account activity and whether the frequency, source and type of transactions should have reasonably triggered an alert for Santander in the individual circumstances here. From what I can see, and as Santander has also highlighted, a vast majority of the credits into the account came from a recognised source – another of the late Mrs T and Mr J's accounts. The reference for a regular credit was also '*utilities*'. I can also see the account was used for occasional general spending, and these transactions were for generally small amounts. The transactions I've looked at begin from 2011 and I haven't seen anything within them that would necessarily have triggered an alert.

Santander might take action if it suspects fraudulent or unusual activity. But, for the reasons I've already set out, I don't think Santander had any reason to think that was the case here. Santander might decide to close an account if, for instance, it thinks it's being run in a way that breaks a legal requirement. From the evidence I've seen, I don't think there was any reason for Santander to think that was the case either.

So, although I've thought carefully about Mr J's comments, I don't agree that Santander failed to effectively monitor the account.

#### *Gambling transactions*

There is a general expectation on financial businesses to support customers who may be experiencing financial difficulty or who are classed as vulnerable. But that's largely dependent on what the business knows about the customer's circumstances.

Looking at the account transactions it is clear that the late Mrs T was using the account to fund gambling and she was doing so quite frequently too. Santander says the late Mrs T did not get in touch with it at any point about the gambling on the account or to say she was struggling with her finances. So I've had to consider whether Santander should have been aware there may have been a problem here for any other reason.

Santander has said in its submissions that the account activity wasn't unusual. Looking at the statements I can see there were numerous transactions of the same value – usually £100 - to gambling sites. There were also periods when the activity increased significantly and would then return to previous levels. For example, Mrs T would go from spending £800 in a day on transactions to almost £1,500 – doubling the amount she was spending on gambling. And there are other instances where the amount almost triples in value, before reducing again. It is clear Mrs T wasn't managing this account like a standard current account with the general transactions you would expect to see. I think within the context of this account there were instances that should've been flagged by Santander as unusual and it ought to have been aware Mrs T was vulnerable to compulsive spending.

I've thought about whether, if Santander did intervene here and ask Mrs T about this – what would have likely happened. But even if it had done this, it's important to note that the debit card was registered for the late Mrs T, and any queries would've been directed to her. Even if support had been offered to the late Mrs T in respect of the gambling on the account, it is not possible to know the effect, if any, this would've had on her behaviour. I realise that Mr J feels strongly that Mr J should have intervened here to prevent the spending and has told us that Mrs T was addicted to gambling. But I can't know with any certainty what would have happened if Santander intervened here. On that basis, it's difficult for me to fairly hold Santander liable for the transactions here.

It is also important to recognise that Santander since 2020 has chosen to take pro-active steps to provide gambling related support for customers who it considered at risk of financial harm. This approach wouldn't have been in place when the late Mrs T was using the account. Taking this all into consideration, I find Santander to have acted reasonably in the circumstances.

I know this will not be the outcome Mr J was hoping for and he will be disappointed with the decision I've reached. But I hope my decision provides some clarity around why I won't be asking Santander to compensate the estate of Mrs T.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs T to accept or reject my decision before 26 December 2022.

Chandni Green  
**Ombudsman**