

## **The complaint**

Mr M complains that Santander UK Plc failed to refund several transactions that he didn't recognise.

## **What happened**

Mr M explained that he noticed a large number of transactions to an online gaming merchant I'll refer to as J. Mr M didn't recognise those payments and contacted Santander about them.

Mr M asked for a refund which prompted Santander to look into the matter. Santander told Mr M to contact J himself to check what account was connected to the payments. That was because Mr M had made an undisputed payment to J about a month prior to the disputed transactions starting.

Mr M contacted J and asked them about the payments, but they wouldn't disclose anything to him as he wasn't an account holder. Santander declined to refund Mr M, believing he'd authorised the payments. Mr M complained to Santander and after looking into the matter, Santander maintained their position and declined to make any refund to Mr M.

Mr M brought his complaint to the Financial Ombudsman Service for an independent review and it was looked into by one of our Adjudicators. Both parties were asked for information about the complaint and Mr M explained how he'd allowed a friend's child to use his card to pay for a game with J. Mr M told our service that he suffered from a medical condition that increased his stress when dealing with financial matters.

Santander provided evidence of the transactions and enquiries they'd made with J about the disputed transactions.

Our Adjudicator thought Mr M hadn't authorised the transactions and recommended that he be refunded with an additional interest payment to ensure Mr M was put back into the position he was in before the disputed transactions.

Once Santander received the Adjudicator's report, they told our service that this was new information about what had happened with Mr M's card. They offered to repay Mr M the transactions he'd disputed and add the interest payment.

Mr M thought that he should receive compensation for how Santander had dealt with his complaint and asked for a further review.

Santander repaid the disputed transactions to Mr M because he'd explained his financial situation was worsening.

Mr M's complaint has now been passed to me for a decision.

I asked both parties for further information and clarified how the payments were made at the time (using Mr M's debit card without an overdraft).

Santander were unable to provide any recorded phone calls and they confirmed they had no records of Mr M's medical condition.

## **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.

After receiving the Adjudicator's report, Santander agreed to refund the substantive losses incurred by Mr M – so I don't need to address whether these transactions were authorised by Mr M or not.

What the remaining complaint concerns is Mr M feels he's due compensation from Santander because of how they dealt with his loss.

When Mr M reported these transactions to Santander, they examined the transaction history of payments to J. Mr M had made an undisputed transaction to J and Santander believed this was evidence that Mr M was responsible for the rest of them.

Mr M was told to approach J and ask them about the payments. It's often good practice to approach merchants directly as the issue can sometimes be resolved by them without involving the bank. But, in this case, J declined to give any information to Mr M – likely because Mr M didn't have an account with them which would prevent such a disclosure.

At the time, Santander didn't approach J directly. They did request information from them (using the Data Protection provisions available to them) some months later, but J didn't respond to Santander.

When Santander first received the request for a refund, they had the option of using the Chargeback system. This is a system operated by the payment processors and is a voluntary scheme. There's no right to use the system, but if there's a reasonable chance of success, we would expect Santander to use it.

Here, I've thought about how Santander approached Mr M's claim. If they'd used a Chargeback, the information received from J would have likely matched the information used on the first undisputed transaction. That first transaction was one which Mr M has told our service that he made himself. So, I think if Santander had considered that information – they would probably have come to the same conclusion they'd already arrived at – that Mr M had a relationship with J and the additional transactions were authorised by him – or that he allowed others to use his card.

I do think Santander could have made their information request much earlier to J, but as J never responded, I don't think Mr M was disadvantaged by this delay as J probably wouldn't have responded to any earlier request.

I appreciate the stress this incident has caused Mr M and he's repeatedly informed our service of the difficulties he's been caused by the ongoing complaint. To lessen the financial issues Mr M was experiencing, Santander agreed to repay the disputed transactions prior to the complaint being finalised. I'm grateful for this early repayment and hope this assisted Mr M.

Santander haven't any record of Mr M's condition, although Mr M says he repeatedly told them about it. I haven't been able to assess any phone calls about this complaint because Santander couldn't provide them. But, I've considered the issues Mr M has talked about and how this impacted his complaint.

Santander assessed Mr M's refund request based on the evidence of the first undisputed transaction – they've said they were unaware of the detail of the first transaction until they received the Adjudicator's report. So, at the time Santander dealt with the refund request, I don't think they acted unreasonably to refuse a refund. This undoubtedly caused Mr M more stress, but I have to keep in mind that Santander didn't cause the loss to his account – it was

Mr M's earlier use of his card in a friend's machine that allowed these payments to be made.

Once Santander were aware of the full circumstances they agreed to refund the money and add 8% simple interest for the loss of use of this money. I think that was a reasonable approach for Santander to take and I won't be asking them to do anything more.

### **Putting things right**

I understand that the disputed transactions have been repaid and the only outstanding matter is the interest payment of 8% to be paid from the date the loss was reported to the date it's repaid.

### **My final decision**

My final decision is that I uphold this complaint against Santander UK Plc and instruct them to:

- Refund the disputed transactions made to J – accepting that Mr M has already confirmed repayment.
- If not already paid, make an interest payment at 8% simple for the loss of use of the disputed transactions from the date the loss was reported to the date they're repaid.
- If Santander considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 July 2022.

David Perry  
**Ombudsman**