

The complaint

Ms W is unhappy with how Santander UK Plc handled her request for a subject access request (SAR) and failed to make reasonable adjustments for her.

What happened

Ms W contacted Santander on 30 December 2021. She explained she had previously raised a SAR in 2019 but Santander had written to her stating she didn't have any active accounts with them. But Ms W said that she did have an account with Santander and provided her old address that they had on file for her. Ms W asked for her SAR to be sent to her via email as a reasonable adjustment under the Equality Act 2010, as she can't receive post due to her disability. Ms W's told us she finds receiving post extremely distressing.

Santander responded to Ms W's SAR on 6 January 2022. However, Santander sent this by post to her old address. Ms W was unhappy that she didn't receive a response to her SAR or complaint and so she referred her complaint to our Service.

Our investigator looked into the complaint and discussed with Santander that they'd incorrectly sent the SAR against Ms W's reasonable adjustment request. She also highlighted that Ms W's old address was a known building, widely publicised in the media to be unoccupied. Santander reviewed the complaint and agreed they should have recognised that the old address would likely no longer be habitable. Santander apologised for the oversight and offered to send the SAR via email and pay £100 compensation for any distress or inconvenience caused, which our investigator thought was fair.

Ms W disagreed - she explained that she had received a letter from Santander against her requests back in 2019 and the impact of receiving this had led her to try to kill herself. Our investigator asked further questions of Santander, but Santander were unable to locate any record of sending the letter Ms W was referring to. Santander explained it was likely that upon receiving such a request, if they were unable to locate an account with the details provided, they would respond to a consumer explaining that no active accounts were found. And if Ms W had provided her current address, which Santander doesn't have on file, they likely wouldn't have been able to locate any of her accounts.

Our investigator said she didn't doubt what Ms W was saying but agreed with Santander that with such limited information, they wouldn't have known the reasons why not to send a letter to her current address. And although they'd incorrectly sent the SAR to her old address, there was little impact as Ms W wouldn't have received this letter.

Overall, our investigator still considered the £100 compensation and offer to send the SAR via email to be fair. She also directed Santander to engage with Ms W about her disability to explore how they could help support her moving forward.

Ms W didn't agree and so the complaint has been passed to me to decide.

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.

When thinking about this complaint, I'm required to take into account – amongst other things – relevant law and regulations. So, I've taken the Equality Act 2010 into account when deciding this complaint – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. If Ms W wants a decision on whether Santander have breached the Equality Act 2010, then she'd need to go to Court.

The Equality Act 2010 requires businesses to make reasonable adjustments for people with disabilities. Santander have recognised that they incorrectly sent a SAR response by post to Ms W's old address, despite her request for this to be sent via email. I agree with our investigator that Santander should have questioned this address further considering the circumstances of that specific address. But I also agree that Santander's error wouldn't have caused her to be distressed about receiving post, because she didn't receive it.

There has been a delay in Ms W receiving the SAR, because it was sent out by post in error to an address Ms W didn't have access to. But I'm also taking into account Santander offered to send it by email immediately when our investigator pointed out that Ms W wouldn't have been able to receive it at the address they posted it to.

I think the key issue here for Ms W is around the original letter that Ms W says she received in 2019, where Santander wrote to her to explain she had no accounts with them or that it had been more than six years since she'd had an account with them.

I'm very sorry to hear the effect of receiving this letter had on Ms W. I appreciate that receiving post is extremely distressing for her and I'm truly sorry to hear how much this affected her.

Santander have searched their systems but can find no record of a SAR or letter being sent to Ms W's current address.

Where there's conflicting information about what has happened and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

Santander have confirmed that they did not hold Ms W's current address. Therefore, I think what most likely happened is that Santander were unable to locate Ms W's account on their systems based on the information provided. So, when they received a SAR in 2019 with Ms W's current address, they acted reasonably in responding to her letting her know that they could find no active accounts.

Considering everything I find it likely that Ms W did ask for this response to be sent to her via email. However, I've not seen enough evidence that she explained why she needed the response to be sent via email. And as Santander were unable to locate her accounts with the information provided, they wouldn't have been able to see any records of her adjustments or vulnerabilities, if they'd been recorded on her file. So I can understand why, with the limited information they had, they sent the response via post.

When considering complaints of this nature our role isn't to fine or punish a business when they make mistakes. We consider what is fair and reasonable. And, having considered everything, I'm persuaded, on balance, that £100 compensation is fair and reasonable.

I know how strongly Ms W feels about this complaint and I know this wasn't the outcome she was hoping for. However, in the circumstances I believe Santander's offer to put things right is fair.

My final decision

My final decision is that Santander UK Plc have offered enough to put this matter right. If Santander UK Plc haven't done so already they should pay Ms W £100 and send her SAR via email. They should also discuss with Ms W any reasonable adjustments she needs moving forward.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 27 July 2022.

Helen Sutcliffe
Ombudsman