

The complaint

Mr H says Santander UK Plc treated him unfairly when he visited one of its branches to withdraw cash from his current account.

What happened

In August 2021, Mr H visited a branch of Santander. His wallet, which contained his bank card, had been stolen so he didn't have any cash. He intended to make a withdrawal and arrange for a new bank card to be issued and had his passport with him as identification.

Mr H became unhappy with his treatment by the cashier. He said he was asked excessive security questions and pointed to another customer being served at around the same time that he felt was being treated more favourably. A deputy manager spoke to Mr H, but he was left feeling embarrassed and intimidated by Santander's actions. Mr H believed Santander had discriminated against him on the grounds of his race and caused him to be late for work that morning which led to him losing his job.

Santander rejected Mr H's complaint, saying the cashier correctly asked additional security questions of him to ensure he was who he claimed to be. It said it had a duty to protect account holders and their money by following due diligence and that it hadn't treated him unfairly. Santander said the situation escalated when Mr H began to record the visit and members of staff on his phone, which made them feel uncomfortable and intimidated.

Unhappy with Santander's response, Mr H brought his complaint to this service. One of our investigators looked into the complaint and didn't recommend that it be upheld. They didn't think Santander had treated him unfairly by seeking to confirm his identity as it had in the absence of his bank card and given that he was some distance from his home address. The investigator didn't think the evidence showed Mr H had otherwise been treated unfairly in-branch.

In disagreeing with the investigator's findings, Mr H said a cashier he hadn't been dealing with came from another area of the branch to confront him. He said the investigator had missed clear facts and evidence showing he was treated unreasonably and unfairly. The complaint was passed to me to review afresh and reach a decision.

On considering the complaint afresh, I reached a different outcome to the investigator and issued a provisional decision upholding the complaint in part. Essentially, I didn't see evidence that Santander had, on balance, treated Mr H unfairly in-branch or that his race played a part in the way he was treated. But I did think Santander hadn't paid proper attention to the allegation of discrimination he'd made or adequately addressed the issue for him in responding to his complaint. As compensation for the impact of that on him, I recommended that Santander should pay Mr H £250. I asked the parties to provide further comments and evidence before I reconsidered the matter.

Mr H replied that it was clear Santander had treated him differently due to his race.

Santander came back to say it had nothing more to add.

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.

Having done so, I've decided to uphold the complaint in part. I'll explain why.

I'd like to assure Mr H that I've thought about everything he's told us – including his most recent comments made in response to my provisional decision. But I'm not required to address each and every issue that's been raised. Nor do I think that would be particularly helpful. Instead, this decision focusses solely on the issues that I consider go to the heart of the complaint.

As I said in my provisional decision, I'm sorry to hear that Mr H feels upset by the treatment he received from Santander. While I can consider the impact of anything Santander might have done wrong, it's not my role to say whether Santander has acted unlawfully or not. That's a matter for the courts. My role is to decide what's fair and reasonable in the circumstances of the complaint. In doing that, I must take a number of things into account including relevant law and what we consider was good industry practice at the time. So, I'm required to take discrimination laws into account, if relevant, among other things when deciding what's fair and reasonable in the circumstances of the complaint. As Mr H says he's been discriminated against, I think the Equality Act 2010 is a relevant consideration here.

I can't say for sure what happened when Mr H visited the branch that day. There's no clear, objective evidence – such as a sound recording – that shows he was treated unfairly. And, although Santander's provided a recording of CCTV footage of the visit, we've been unable to access it (and Santander's unable to provide it in another format that we might be able to access). So, I need to consider the remaining evidence and what this shows on balance.

On the one hand, we have Mr H's recollections from the time of his branch visit and his treatment by Santander's staff. In summary, he says he was treated less favourably than other customers and was made to feel intimidated and embarrassed. On speaking to the branch manager, Mr H felt the situation didn't improve.

On the other hand, we have Santander's records of the incident – including statements from the cashier that served Mr H and other members of staff that witnessed the visit including the deputy manager he spoke to. Although these statements were provided some time after the events, I think I can still place at least some reliance on them in terms of weighing up all the evidence.

I think the statement from the cashier that served Mr H is broadly consistent with what the other members of staff have said about the events. In essence, the cashier believed Mr H was being impatient and rude while they were trying to follow guidelines on security and risk checks. They said Mr H became aggressive and frightened another customer. The cashier said they were really upset by Mr H's behaviour.

The other statements made reference to Mr H being abusive, rude and loud and scaring other customers. One member of staff said they weren't happy about Mr H filming them.

The deputy manager said they apologised to Mr H because he said he was going to be late for work. Mr H told them he felt the cashier that served him was racist and that was why they'd asked him additional questions. The deputy branch manager said they apologised to Mr H if he felt that way but assured him that none of the branch staff were racist. They said they agreed to Mr H's request that a complaint be raised.

I'm satisfied as to why the cashier was asking Mr H additional security questions. But what isn't clear to me from the staff statements is whether the reasons for those additional questions were made clear to him from the outset. And, if they weren't, whether this caused the situation to escalate.

So, it seems the parties agree things didn't go well in branch that day. Mr H believes what Santander's done went beyond poor customer service and into the realms of discrimination. In response to my provisional decision, Mr H said he felt it was clear that Santander had discriminated against him. I understand that Mr H feels that way and I do think Santander hasn't quite grasped how Mr H felt during and after the visit.

That said, I haven't seen any evidence which persuades me that Santander's actions were related to Mr H's race. That remains the case despite Mr H's recent comments following my provisional decision. Rather I think the situation escalated, possibly due to the actions of both parties. I understand that Mr H feels he was treated less favourably than other customers, but I'm not persuaded that Santander acted unfairly in that respect. I think it's important to emphasise that Mr H was trying to withdraw money without his bank card. He accepts he was far from home and wouldn't necessarily have been known to the branch staff – although it seems from their statements that the other customer Mr H mentioned was known to them and was a regular visitor to the branch.

I recognise that Mr H wasn't without any identification. He had his passport with him. I've asked for a copy of the security guidelines the cashier said they were trying to follow to see if they acted in accordance with them. Although Santander didn't provide a copy on the basis it relates to its internal security process, overall, I'm satisfied it's likely Santander asked Mr H questions in the interests of security and to ensure his account wasn't accessed without his authorisation. While I haven't seen the specifics of the process, I consider it reasonable that Santander would have guidelines in place to cover situations such as these. I'm prepared to accept that the guidance would likely have required staff to ask additional questions to identify the customer and before allowing access to their account. I'm glad to see that Santander issued a new bank card to Mr H that same day and that he was able to make a withdrawal.

That being said, I think Santander could have handled things better once Mr H complained about how he'd been treated. It's clear to me that one of Mr H's main concerns was that he'd been discriminated against. Although, as I say, I haven't seen grounds to believe he was singled out because of his race, it's reasonable to expect Santander to have addressed Mr H's allegation in its responses to him. Especially as, in their statement, the deputy manager accepts the subject of discrimination was discussed with Mr H at that time and just prior to a complaint being logged.

Santander subsequently sent Mr H two final response letters. The first of these appears to have been issued by the deputy manager Mr H spoke to. While the letter addresses the additional security questions put to Mr H, no reference was made to his allegation of discrimination. The second letter, sent a week after the first, was slightly more detailed in its reasoning regarding the other customer and why they weren't asked additional questions as Mr H had been. But still no reference was made to Mr H's allegations around discrimination. And when the deputy manager spoke to Mr H, they told him their staff weren't racist. That could easily have given him the impression that his allegation was being dismissed before it was even investigated.

I can see that this lack of engagement from Santander about these arguments was upsetting and frustrating for Mr H, as he took that to mean his genuine concerns weren't taken seriously. In his call to this service in bringing his complaint, Mr H made the point that his main issue wasn't about security but discrimination. Although I think the two things are linked

in this case, I believe Santander ought to have also addressed the latter as well and that its failure to do so had a negative impact on Mr H in making him feel as though he hadn't been heard. As such, I believe Santander should pay Mr H compensation for the distress and inconvenience he's been caused.

Putting things right

Deciding on awards for distress and inconvenience is seldom straightforward. The issues involved are subjective by their very nature and the impact on the consumer can be difficult to determine. But, in the circumstances, I still think an award of £250 as compensation is justified in this case given among other things the seriousness of the allegations that went unanswered, the length of time the dispute's been ongoing and the impact this has had on Mr H.

My final decision

For the reasons given, I uphold this complaint in part. I require Santander UK Plc to put things right for Mr H as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 January 2023.

Nimish Patel
Ombudsman