

The complaint

Miss G complains that Santander UK Plc loaded a fraud marker against her name on the National Fraud Database. She'd like the marker removed and compensation for the impact on her.

What happened

Miss G had an account with Santander.

On 28 June 2022 Miss G received two payments of £100 and £150 from a third party account I'll call A.

On 29 June 2022 Santander received contact from another Bank I'll call M. Bank M informed Santander that the two payments were fraudulent. Bank M asked for the payments to be returned.

On 1 July 2022 Santander contacted Miss G to ask about the payments received into her account. Miss G initially advised that she'd lost her debit card, however later clarified that the lost card was for a different account. Miss G explained that her Father regularly spends time abroad, and when doing so he's not able to receive money into his account from clients. So the money is paid into her account instead.

On 8 July 2022, after further conversations with Santander, the bank asked Miss G for proof of entitlement for the £250 received on 28 June 2022 plus a further credit received on 30 June 2022. On the same day Miss G sent in proof of entitlement evidence to the bank, including a copy of messages between her and A. The messages referred to Miss G's Father acting as an accountant for A, and A making a payment of £250 for accountancy services.

On 12 July 2022 Santander decided to close Miss G's account, and gave her 30 days' notice of the account closure. They also decided to load a marker against Miss G on the National Fraud Database. Miss G provided further documents to Santander to show proof of entitlement to the funds, however the bank didn't accept them.

Miss G wasn't satisfied with Santander's actions so complained to the bank. The bank reviewed their position, but felt they'd acted fairly in holding on to the funds and loading a fraud marker.

One of our investigators reviewed Miss G's complaint.

They asked Miss G what the payments of £150 and £100 were for, and to provide evidence. Miss G provided the evidence she'd sent to Santander in July 2022.

Our investigator shared this with Santander and asked whether they'd review their position on the fraud marker loading.

On 1 December 2022 Santander agreed to remove the fraud marker and offered to return £890.48 (the remaining balance in Miss G's account) to Miss G.

Our investigator shared the offer with Miss G – but Miss G wasn't satisfied with the settlement. She asked for Santander to pay compensation. But the bank didn't agree. Our investigator asked Miss G for the impact on her from Santander's actions.

In summary Miss G said:

- She experienced significant stress, including taking time off work as a result
- She was concerned about failing security clearance at her job
- She ran out of sick days, so had to use annual leave instead
- She applied for a new bank account but it was declined, and this negatively impacted her credit score
- The fraud marker negatively impacted her ability to obtain a mortgage
- Her salary wasn't made available to her on arriving in the account

Our investigator reviewed the evidence provided by Miss G. They concluded that Santander shouldn't have loaded the fraud marker, and this caused Miss G significant distress. They recommended that Santander award Miss G £500 compensation, and 8% simple interest on her salary from 27 July 2022 to 3 August 2022.

Santander accepted our investigator's view. But Miss G didn't. She thought the compensation wasn't sufficient to match the distress and financial loss she'd experienced.

As Miss G didn't agree it's 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.

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything that Miss G and Santander have said before reaching my decision.

Santander agreed to remove the marker on 1 December 2022. I've seen evidence this has been actioned. But, I need to assess whether the bank acted fairly in loading the fraud marker in July 2022.

To load a fraud marker Santander need to have evidence that fraud or a financial crime has been attempted or committed. Santander received a report from Bank M in June 2022 advising that fraudulent funds were received into Miss G's account. So I'm satisfied they've met this standard. However, this on its own isn't enough for Santander to load a fraud marker on the database – Santander need to show that Miss G was *complicit* in receiving fraudulent funds.

I've thought about this, and whether the evidence Miss G gave to Santander in July 2022

showed, on balance, she wasn't complicit in receiving fraudulent funds. And I think it was. The evidence shows Miss G having a conversation with A about a payment of £250 on behalf of her Father. And supports the explanation Miss G gave Santander when speaking with them on 1 July 2022. It follows I don't think Santander acted fairly in loading the fraud marker against Miss G in July 2022. As I'm satisfied that Santander unfairly loaded the fraud marker against Miss G I need to consider the impact to her from their actions.

Miss G advised that she was negatively impacted by Santander's actions. I've firstly considered the direct financial loss Miss G argues she experienced.

Financial impact:

Miss G informed our investigator that prior to the fraud marker being added she was considering applying for a mortgage. In June and July 2022. Miss G argues that the interest rates being offered at this time were much better than what's available on the market now. But, she wasn't able to apply for a mortgage due to not having a bank account and the fraud marker would have prevented any lending. I'm satisfied it was the case that Miss G was considering applying for a mortgage, but I'm unable to award her compensation for not getting a mortgage at a better rate. I say this as Miss G didn't get a mortgage a principle – so I can't be sure what she would have been offered at the time. And it's my understanding she hasn't taken out a mortgage now, so I can't say for certain what offer she'd receive. And our service doesn't make financial awards for events which *might* have happened but didn't.

Miss G advised she took time off work on sick leave due to her poor health, and she's requested compensation for having to use annual leave later in the year. I've reviewed the payslips provided my Miss G, and I can see that she wasn't financially impacted by taking sick leave or annual leave. For this reason this isn't something I can compensate her for.

Distress and other impacts:

Miss G has also advised she was worried about losing her job because of the security clearance required. I understand her worry here. And I've taken this into account when awarding compensation for the impact.

Miss G advised she experienced significant distress from the loading of the marker – including taking sick leave and having linked health problems. I've seen evidence of a sick note Miss G was given on which it's recorded she experienced poor mental health as a result of problems with her bank. I think this is strong evidence to support Miss G's argument.

I've seen a copy of Miss G's credit file, and an application made for another bank account which Miss G says was declined. I think it's likely that the fraud marker significantly reduced Miss G's chances of opening another bank account – and although she had access to other banking facilities this negatively impacted her credit file. I've considered this in the compensation I think is fair.

Salary access

Miss G provided proof of entitlement for her salary on 27 July 2022, but Santander didn't get her access until 3 August 2022. Santander haven't provided any explanation for the delay in releasing her funds. For this reason I think they should have been released on the day the proof of entitlement was provided.

Putting things right

To compensate Miss G for the distress and inconvenience she experienced from the loading of the fraud marker, I think Santander should compensate Miss G £500. Miss G was also deprived of her salary from 27 July 2022 to 3 August 2022. And I think she should be compensated 8% simple interest for this.

My final decision

My final decision is I direct Santander UK Plc to:

- Pay Miss G £500 compensation
- Pay Miss G 8% simple interest on £890.48 from 27 July 2022 to 3 August 2022

HM Revenue & Customs require Santander UK Plc to withhold income tax from the above mentioned interest. HSBC should give Miss G a certificate showing how much is taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 19 June 2023.

Jeff Burch
Ombudsman