

The complaint

Mr C is unhappy with the conduct of Santander UK Plc after a fraudster applied for, and was granted, a loan in his name.

What happened

Mr C was the victim of identity theft. Fraudsters were able to apply for a personal loan in his name with Santander. The fraudsters also impersonated Mr C to apply for financial products at other businesses.

Santander accepted the loan was fraudulently applied for, but Mr C complained about various aspects of its service, conduct and investigation.

Santander acknowledged that it had made some mistakes and offered to pay Mr C £150 in compensation. Mr C declined this offer and referred the matter to our service.

One of our Investigators looked into the complaint. They thought that the compensation offered by Santander was fair and didn't recommend that it do anything further.

Mr C thanked the Investigator for addressing his complaint points but asked for an Ombudsman to review the complaint afresh. He said he was particularly frustrated that Santander refused to report the matter to the police, despite the Citizens Advice Bureau publicly stating that it ought to.

So, the case was passed to me for a final decision.

In advance of the final decision, I asked our Investigator to obtain some further information from Santander. It disclosed that it had not followed its correct process when approving the loan because it had failed to ask the applicant for proof of identity. In light of this new information, our Investigator asked Santander to increase its offer of compensation from £150 to £250. It agreed. But Mr C didn't think the compensation fairly reflected the impact of Santander's actions, in particular the fact it continued to write to him about the loan for several months after he reported the fraud.

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.

As an informal dispute resolution service, our role is to decide whether a business has made an error and, if it has, to instruct that business to put its customer back in the position they would have been had that error not been made.

I appreciate that Mr C would like me to review each of his complaint points in some detail. But Mr C has made few new substantive arguments since receiving our Investigator's view and the more recent correspondence. He appears to largely accept what they have said. The remaining point in dispute appears to be whether Santander's offer fairly reflects the

distress and inconvenience caused to Mr C. But I have, in any case, reviewed all of his complaint points, which are summarised and addressed below:

- 1) Santander provided Mr C with the criminal's mobile phone number and therefore breached its data protection obligations.

I can only address loss or harm suffered by Mr C, not third parties, so I won't comment on the disclosure of the mobile telephone number of the fraudster.

- 2) Santander refused to inform the police of the fraud, despite the Citizens Advice Bureau stating that they were obliged to. By not doing this, Mr C was left powerless to bring the fraudsters to justice.

While Mr C may be disappointed that Santander won't report the matter to the police, I have no power to compel it to do so. It's also unfortunately true that many frauds which are reported to, and recorded by, the police aren't investigated. And, I can't fairly say that Santander's failure to report the matter to the police has caused Mr C any material harm.

- 3) Santander appears to accept frauds, and the associated distress this causes to its customers, as part of normal business.

Again, I can only consider Mr C's distress, not the distress of others. But, in any case, Santander cannot realistically prevent every act of fraud from taking place. It has to strike a balance, like any other business, between additional checks and security and allowing customers to access banking facilities in a convenient and timely fashion. In this case, it acknowledges that it did not follow its own procedure for granting the loan. So, I accept this particular instance may have been avoidable.

- 4) Santander should have had Mr C's mobile number and email address on file, but it failed to detect that different contact details had been provided. It also did not conduct proper affordability checks and, if it had done, the fraud would have been revealed because it's unlikely the fraudsters would have had access to accurate information about his financial situation. He also has received no credible explanation as to why he only found out about the debt when he was being chased for repayment and not at the point of application. He suggests that email only correspondence was chosen by the fraudsters, and he argues that Santander allowing this as a possibility is a significant oversight – given the way it has enabled fraud.

Mr C's account with Santander was closed more than six years before the fraud. I've seen no evidence that Santander still held Mr C's email address and mobile number and would have been aware of any discrepancy. But even if it had held this information, it's not unusual for people to change email addresses and mobile numbers over time.

Santander are, to a certain extent, entitled to rely on the information provided by an applicant when deciding whether to lend. I wouldn't always expect it to verify income and expenditure. Other ways of verifying creditworthiness are available to the bank – such as cross-referencing information with credit reference agencies, which can also provide it with information about the indebtedness and payment history of the individual.

In relation to correspondence, the evidence I've seen suggests the communication preference was for mail, rather than email. Santander's records suggest that a letter was sent to Mr C on 13 March 2021. I can't conclusively say that it was sent, and it does not appear to have been received, but it doesn't appear that the fraudsters chose to communicate only by email.

- 5) Santander retained Mr C's personal information longer than it ought to have done for data protection purposes. The bank used that information to confirm Mr C's identity. Had they not retained this information, the fraudsters wouldn't have been able to open the account so easily.

There's no evidence that previously held details were used to confirm Mr C's identity and Santander have denied that this is the case. Instead, as is common, the bank used information held by credit reference agencies to verify information it had been given.

- 6) The time taken to deal with the matter has been excessive – which increased the risk of other credit providers being defrauded.

I agree that the time taken to investigate the fraud was longer than necessary. But, again, I can only recognise the impact this had on Mr C, not the losses to other credit providers.

- 7) & 8) None of the parties involved took the time to respond to the majority of the questions raised, including Santander in its final response letter.

I understand Mr C was disappointed with the response received from Santander – it didn't cover off responses to his questions at all. I think most of those questions have been addressed during the investigation of the complaint (for example, it is known that the compensation cheque wasn't sent at all, rather than being sent to the fraudster). Mr C also seems to accept that some of the correspondence was simply down to human error.

But, while I wouldn't expect Santander's final response letter to go into great detail in addressing the points raised by Mr C, I think it could have provided more of a response to those concerns, at least in broad terms and at a high level.

Overall, it's apparent that Mr C has not just his own interests in mind, but a sense of the wider public good. As a consequence of that, some of the issues raised by Mr C are about broader issues relating to the way Santander, and other financial businesses, deal with fraud. Those issues are largely beyond the scope of this complaint and service (as they are regulatory in nature). I must limit my considerations to the impact that any mistakes have (rather than might have) had on Mr C.

Since our Investigator's view, it has come to light that Santander should not have approved the loan without requesting identity documents. It's likely that, had it done so, Mr C would have been saved a good deal of distress and inconvenience. But I think it's important to note that the fraudsters applied for financial products in his name at several different businesses. I understand that some applications were approved, others were declined, but not because fraud was suspected. Mr C understandably complained to these businesses, as well as the credit reference agencies which recorded information about the fraudulent applications. So, I need to consider the impact of Santander's actions in circumstances where Mr C would, in any case, be deeply concerned about how his personal information was being used. In other words: Santander's actions were only one part of a series of events which were both distressing and inconvenient for Mr C. I must also remember that the fraudsters had a significant role in causing Mr C distress. Taking all of that into account, I think that the increased compensation offered by Santander is sufficient to recognise the role it played and I won't be asking it to increase its offer.

My final decision

Santander has already made an offer to pay £250 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Santander UK Plc should pay Mr C £250.

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

Rich Drury
Ombudsman