

## **The complaint**

Mrs R complains Santander UK Plc blocked an incoming payment in February 2022. She would like compensation for the time she didn't have access to her funds.

## **What happened**

The facts which led to Mrs R bringing her complaint to our service are well known to both parties so I'm not repeating them in full here. In summary:

- Mrs R had an account with Santander. On 25 February 2022 Mrs R received a payment into her account of £73,799.
- The payment came via a Russian bank. Santander blocked the payment.
- Mrs R said Santander didn't acknowledge that the payment had arrived for a whole month.
- Mrs R told Santander it was her husband's salary.
- Santander wrote to Mrs R advising her to contact the Office of Financial Sanctions Implementation (OFSI).
- On 24 March 2022 the UK government-imposed sanctions on Alfa Bank. The sending bank for the payment
- On 28 March 2022 Santander requested proof of entitlement to the funds. Mrs R provided information on 29 March 2022.
- On 26 April 2022 Santander said Mrs R would need a licence from OFSI to release the funds.
- On 28 June 2022 Santander wrote to Mrs R suggesting she apply to OFSI for a licence in order to release the funds.
- Mrs R contacted OFSI on 15 August 2022 to apply for a license to release the funds
- OFSI advised on 7 November 2022 that they were considering her application.

Mr R complained to our service. One of our investigators looked into the complaint. She thought Santander were acting fairly when they blocked the payment into the account and requested she apply for an OFSI licence.

In April 2023 Mrs R engaged a barrister to contact OFSI to expedite her licence. Mrs R has said she chased OFSI 14 times without getting a response. Following her barrister's involvement OFSI requested payment information which was provided to it. OFSI sent Mrs R a letter stating that no licence was needed as sanctions hadn't engaged at the time the

payment was received by Santander.

Following the view, in 19 May 2023, OFSI advised Mrs R that no licence was needed as the sanctions hadn't engaged at the time the money was sent to Santander.

On 28 July 2023 Santander released the payment and provided interest of £75.68.

Mrs R was unhappy with the view. She maintained that a licence wasn't needed to release her funds and that Santander hadn't done any checks on the payments or asked for any information but merely blocked the payment.

As there was no agreement the matter has come to me to decide.

In my provisional decision I said:

*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 reached a different conclusion to the investigator, and I'll explain why below.*

*Santander has a wide variety of legal and regulatory obligations it must follow when providing accounts to its customers. These obligations are ongoing and are not only relevant when an account is opened. In Mrs R's case, Santander explained its part of their responsibility to carry out enhanced checks on payments to and from countries like Russia as they are considered high risk due to financial sanctions in place.*

*Sanctions can be very broad and relate to countries, individuals, trade and transactions. Santander is expected to take measures to comply with current sanctions, which means it has extensive things it needs to be aware of and monitor. Sanctions are just one of the many things Santander must take into account to ensure it's doing what it should. And, if it didn't review accounts and the activity taking place on them, it could risk serious penalties. So, having a sanctions policy or other policies to mitigate against potential risks isn't by itself wrong.*

*Santander have said they blocked Mrs R's incoming payment because it originated from Russia. The payment was made on 25 February 2022. The UK prime minister announced on 22 February 2022 that a regime of sanctions would be implemented against Russia due to the invasion of Ukraine.*

*The advice regarding the possibility of delays to payments from Russia and Ukraine was published on Santander's website on 18 March 2022. But by then Mrs R's payment had already been delayed by nearly a month.*

*From the evidence provided by Santander I can see that the funds arrived on 25 February 2022 and that the concerns they refer to are a match with the sending bank Alfa bank. I can see from the timeline provided that Santander reviewed the payment on 18 April 2022. By that stage sanctions had been put in place regarding the sending bank. Santander have said that all payments involving Russia were held once the invasion of Ukraine happened whilst they decided on their approach.*

*I appreciate Santander were trying to decide their approach to payments received involving Russia. But the funds that arrived into Mrs R's account weren't at the time they arrived sanctioned funds and it should have become rapidly clear that Mrs R wasn't a sanctioned individual.*

*Mrs R has said she was willing to provide information and I can see that when Santander requested proof from her, she provided it straight away. Mrs R insisted she wasn't caught by the sanction's regime, and she has provided information why not. Mrs R was not a sanctioned individual and neither was Mrs R's husband who the funds originated from.*

*I accept that Santander would need to carry out checks regardless of where the funds originated from but there were delays in dealing with this payment. The payment wasn't reviewed until 18 April 2022. Santander didn't ask any questions regarding the payment and the origin of funds for well over a month. So, I'm not satisfied that Santander acted fairly when they blocked Mrs R's payment and didn't request any information or review the matter promptly.*

*Santander have said that they required Mr R to obtain a licence from OFSI in order for Santander to release the payment into Mrs R's account.*

*In correspondence Santander has said the payment was blocked because it originated from Alfa bank. However, according to information on government websites, Alfa bank didn't become a sanctioned entity until 24 March 2022. A month after the payment was received by Santander. Looking at the evidence I am not satisfied that the payment was caught by the sanctions against Alfa bank.*

*In addition, Mrs R has said that Santander said she should apply for a licence from OFSI in order that they may release her funds. Mrs R followed Santander's advice and contacted OFSI. It told her she should be covered by a general permission as the money was personal funds going to an individual. However, Santander said it should be a specific licence as the payment was over £50,000.*

*Santander wouldn't release the funds without a licence from OFSI even though Mrs R said all along that the payment wasn't caught by sanctions. Mrs R therefore had to apply for a licence from OFSI in order to seek the release of her funds.*

*Following on from the application process OFSI confirmed that no licence was necessary as sanctions were not engaged at the time the payment came into Mrs R's account.*

*Santander credited Mrs R with her funds on 28 July 2023.*

*From reviewing all the evidence I'm satisfied that Santander caused delays in the review of the incoming payment. I appreciate that the situation was changing quickly but Santander weren't proactive in their approach to reviewing this payment. Mrs R has had confirmation from OFSI that the sanctions weren't engaged when the payment was received. From this it follows that Mrs R was deprived of her funds unnecessarily for over a year.*

*Although Mrs R has received her funds now, I think there were delays, so I think Santander should pay Mrs R 8% interest on her funds. The funds were received in her account on 25 February 2022, but Santander would have needed to carry out checks, so I'm proposing to award interest from 11 March 2022 to 27 July 2023. I say this because Mrs R didn't have the use of her funds for all that time, and this was due to Santander's delay.*

*In addition, Mrs R has said she had to engage legal advice at a cost of £6,000 in order to help secure the OFSI licence at Santander's insistence in order to release the funds.*

*I think that Santander should also meet these costs as it appears from the evidence that a licence wasn't in fact necessary in this case. I can see from the evidence provided to me by Mrs R that she applied for a licence herself without legal help and she chased OFSI for information for many months. Mrs R has said that once she realised that a licence from OFSI*

would be the only way of getting her money and that OFSI didn't engage with individuals as promptly if they didn't have legal representation. Mrs R sought advice. Her barrister wrote to OFSI on 25 April 2023 and by 19 May OFSI had provided a response. So, I'm satisfied that the legal advice was necessarily incurred.

Mrs R was made to follow the licencing process through the insistence of Santander, and I am satisfied she sought the help of legal counsel as a last resort after months of chasing and waiting for a response. I think Santander should cover these costs as Mrs R wouldn't have incurred them but for Santander's insistence on obtaining a licence.

Due to Santander's position Mrs R has had a great deal of unnecessary distress and inconvenience. Firstly, by being told that the payment hadn't arrived when it had. Secondly by being told that the payment couldn't be released because it originated from a sanctioned bank when the bank wasn't sanctioned at the time of the receipt of the payment. And thirdly by being made to apply for a specific licence when one was not needed. Mrs R has explained her understanding of the sanctions regime and has maintained that she was not subject to sanctions as an individual with a UK passport. She has had over a year of distress and inconvenience which could have been avoided. Because of the prolonged nature of the distress and inconvenience I am minded to award Mrs R £750 in compensation.

Even though OFSI confirmed that no licence was needed in May 2023 it still took Santander until 27 July 2023 to release the funds. Santander have offered no explanation why it took as long as it did to release the funds following the confirmation from OFSI. Because of this I am minded to award interest at 8% simple for this period of delay.

Santander have offered Mrs R £75.68 interest. Although I appreciate that Santander have provided interest on the funds, this service awards interest at a rate of 8% simple for the time a customer has been deprived of the use of their funds because of an error of the business. In this case I am minded to award interest for the time Mrs R didn't have access to her funds. I consider that Santander were entitled to carry out a review of the funds and ascertain the origin of funds and Mrs R's proof of entitlement. Therefore, I consider that Mrs R should have been able to access her funds from 11 March 2022.

Santander have relied on their terms and conditions to deny liability for losses. They have quoted from term 22B which says they were unable to provide a service because of a situation beyond their control. I have looked at the terms and I think it would be unfair for Santander to rely on this term. I say this because looking at the timeline and the information provided by Santander to this service, the delays occurred because of Santander's actions and not in fact because of a situation beyond their control. I accept that the war in Ukraine was not something that Santander could control. However, that isn't what caused the delay in processing this payment. As I've already said Santander could have been more proactive in reviewing the payment and asking Mrs R for relevant information.

Santander have said it took them two months to define their approach to payments from Russia. I think this resulted in an unnecessary delay. Santander blocked Mrs R's funds and told her to get a licence when she didn't need one. Mrs R has said that other regulated financial institutions in the UK were crediting personal transfers from Russia in February 2022, which makes me suggest other options were open to Santander. Even once the sanctions were in place, I would have expected Santander to review Mrs R's payment and the information she provided and provide her access to her funds. Even if Santander did review Mrs R's payment, they concluded wrongly that she needed a licence to access her funds this resulted in Mrs R not having access to her funds for over a year through no fault of her own.

In summary for the reasons stated above I am minded to uphold the complaint.

## **Responses to my provisional decision**

Mrs R has accepted my provisional decision. Santander have also accepted my provisional decision.

## **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.

Although Mrs R and Santander have not provided any further comments, I have nevertheless re-considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have seen nothing to change my mind and so my provisional findings stand.

## **My final decision**

For the reasons mentioned above I uphold this complaint and direct Santander UK Plc to pay Mrs R:

- £750 compensation for the inconvenience caused to her
- 8% interest on the retained funds from 11 March 2022 to 27 July 2023 minus £75.68 if this has already been paid to Mrs R.
- £6,000 compensation for the legal fees she incurred

Santander UK Plc must pay the compensation within 28 days of the date on which we tell it Mrs R accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If Santander UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs R how much it's taken off. It should also give Mrs R a tax deduction certificate if she asks/ask for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 21 December 2023.

Esperanza Fuentes  
**Ombudsman**