

The complaint

Mr L is unhappy with emails Santander UK Plc has sent to him and the way it's handled his enquiries about this.

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail here. But, in summary:

- Mr L opened a current account and cash ISA with Santander in September and October 2022 respectively. He opted out of receiving marketing correspondence, but he believes Santander has ignored this request and he's raised a number of complaints about specific emails he's received and related contact with the bank.
- Santander didn't agree that any of the emails it had sent amounted to marketing. It paid him £25 compensation as a gesture of goodwill on 19 October 2022 and offered a further £50 on 20 December 2022 but Mr L refused the latter offer. He asked us to look into his complaint.
- Our investigator didn't think the bank had done anything wrong. Mr L disagreed, so the matter has come to me for review.

I issued a provisional decision earlier this month setting out which parts of Mr L's complaint I upheld and what Santander needed to do to put things right. I've reproduced my provisional findings below:

To which complaints does this decision relate?

As noted above, Mr L referred a number of complaints to Santander between 19 October 2022 and 24 April 2023 and followed these up with a number of complaints to this service. Owing to the volume, and similar nature, of the complaints Mr L has raised there has – at times – been some confusion on Santander's part and ours about which complaints are which, which complaints might be duplicates and what offers have been made.

I have spent some time looking into these matters and, as I've already explained to the parties I consider all of Mr L's complaints about the emails he's received to be so closely linked that they should be dealt with together under this one decision. I would also note that Santander says Mr L has now closed both his accounts, so Mr L should not have any reason to raise any future complaints of a similar nature.

I'm issuing a provisional decision, given the previous confusion, to give both parties an opportunity to consider my findings and provide their final submissions.

Has Mr L wrongly been sent marketing emails?

The rules and legislation which relate to marketing and advertising include that an individual must be allowed to opt out of such communications. And, with this in mind, Santander has

shared records relating to Mr L's account, including his application for the current account in September 2022. It's clear from these that he opted out of receiving marketing information and chose paperless contact from the outset.

But there is no obligation for Santander to enable Mr L to opt out of account "servicing" type communications. And, in fact, the bank is obliged to keep its customers informed about their accounts – specific obligations are set out in more detail in, for example, the Financial Conduct Authority's handbook.

Mr L has shared 12 emails from Santander which he believes amounts to marketing communications. He says he's received others too, but he hasn't been able to supply those and I haven't been able to obtain them from Santander. But, as I've already explained to Mr L, I consider the 12 emails to be reasonably representative of the types of mailing Santander was sending.

In all but one of the emails I've seen, the footer towards the bottom of the email explains "This service message was sent to you as a Santander customer. We'll continue to use this email address to send you service messages and inform you of important information about your account e.g. rate changes. You can review and change your contact preferences at any time by logging on to Online Banking and going to 'My Details & Settings'." And I don't consider the content of those emails to amount to marketing. They cover matters such as how to make payments, how to make the most of online banking, an increase in the cashback arrangement, where to get financial support and how to avoid falling victim to fraud and scams.

I understand Mr L didn't find the information contained in those emails helpful – he says some of the emails were repetitive and he already knew much of what was being explained. But that doesn't mean it was wrong of Santander to send them. And the emails that were repetitive of previous ones he'd been sent might have arisen because he opened a second account (a cash ISA) about a month after opening his current account.

I would also note that it's my understanding Mr L could have opted out of receiving emails and secure messages but doing so would not have prevented servicing communications being sent. Instead, those communications would have been posted to him, and that would likely have required him to change his mailing preference from "paperless" to "paper".

In the circumstances, I can't fairly award Mr L compensation in relation to the sending of the servicing emails or, more generally, any time he's spent or inconvenience caused raising complaints about those emails.

However, I have seen one email which probably shouldn't have been sent to Mr L. On 12 December 2022 an email with the subject "Find your edge" was sent. Most of the text of this email was stripped out when Mr L sent it to me but I can see that it encourages Mr L to start planning for the future. And, perhaps more importantly, the footer says "This message was sent to you as a Santander customer. We only send marketing messages if you've not objected to receiving them at present. If you'd prefer not to receive marketing-based offers and information from us by email, please click here to unsubscribe. You can review and change all your marketing preferences at any time by logging on to Online Banking and going to 'My Details and Settings'. Alternatively, visit your local branch. If you opt out of marketing we'll still communicate important information about your account e.g. rate changes."

This footer is different to the one sent with the servicing emails and does suggest it is a marketing message. So it was wrong of Santander to send this to Mr L. However, Mr L complained about this particular email to Santander on 14 December 2022 and the bank

issued a final response letter on 20 December 2022. The bank didn't accept that the email was wrongly sent, but it did offer him £50 compensation and I've taken that into account when deciding how much compensation to award Mr L.

The paper-free email

On 11 April 2023 Santander sent Mr L an email which advised that he had gone "paper-free". I don't think this amounts to a marketing email but I also note Mr L says he was worried that an unauthorised individual may have accessed his account and made changes to his preferences.

As I've already set out, Mr L opted for paperless communications when he first started his relationship with Santander so I can see why this email prompted him to call the bank for an explanation and reassurance that his money wasn't at risk. Mr L says it took some time and a number of call-handlers before anyone could properly help him. We've asked the bank to provide us with recordings of the various calls Mr L made in relation to his complaints, but Santander was unable to locate them.

As I've already set out, Mr L opted for paperless communications when he first started his relationship with Santander so I share his concerns about why this email was sent to him. And, in the absence of call recordings, I'm willing to accept that Mr L had difficulty getting the reassurance he needed.

I've taken the above into account, and the related unnecessary inconvenience caused, when deciding how much compensation to award Mr L.

Santander's overall handling of Mr L's enquiries and related complaints

I've already explained that there's been some confusion given the number of times Mr L has complained about emails he's received from Santander. He referred at least five queries to Santander through a well-known independent issue resolution service, each time mentioning different emails. But Santander only set up two complaints and issued two final response letters – it treated other enquiries from Mr L as duplicates of previous complaints.

I can understand, to an extent, why Santander took this course of action, particularly when it had already explained to Mr L that the emails it had sent did not amount to marketing and it knew he'd referred the matter on to this service. But I still think it ought to have acknowledged all of his enquiries and explained specifically if it did not intend on undertaking any further investigation. I think it's failure to do so is partly what has led to the confusion about Mr L's multiple complaints.

I've taken the above into account, and any related unnecessary inconvenience caused, when deciding how much compensation to award Mr L.

Fair compensation

Santander paid £25 compensation into Mr L's current account on 31 October 2022. It offered a further £50 on 20 December 2022 but this wasn't accepted, so wasn't paid.

I've taken into account everything that's happened on this case. I'm also aware that Mr L has brought other complaints to this service, before this one, about similar matters and it's been explained to him what types of correspondence amount to marketing.

Overall, and for the reasons set out above, I currently think Santander should pay a further £150 compensation to Mr L.

Both parties accepted my provisional findings and made no further submissions.

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 and as neither party has provided any further comments or evidence for me to consider, I see no reason to depart from the findings set out in my provisional decision and reproduced above.

My final decision

My final decision is that Santander UK Plc should pay £150 compensation to Mr L.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 21 February 2024.

Ruth Hersey
Ombudsman