

## **The complaint**

Mr M complains that Santander UK Plc pursued him for fraudulent credit card debt. Mr M is also unhappy with the service he received after reporting the fraud and he has raised concerns about Santander's handling of his personal data.

## **What happened**

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

Mr M visited a Santander branch to query why his savings account card, which had recently replaced his passbook, wasn't working. He was told the savings card was blocked due to a credit card debt of thousands of pounds being owed in his name. Mr M had been unaware of this as his address and telephone number had been changed by a fraudster who impersonated him on a telephone call with Santander.

Mr M reported the credit card debt as fraudulent with Santander in October 2022. And over the coming months, after his contact details were updated, he contacted Santander on numerous occasions by both telephone and branch visits about the fraud investigation. This was because he was receiving letters demanding payment which explained non-payment would affect his credit score. His savings card also remained blocked during this time. Santander repeatedly reassured him that the fraud was being investigated and that he didn't need to worry about the letters he was receiving – and which they couldn't stop being sent as they were processed automatically on their systems.

Mr M complained to Santander by way of a recorded delivery letter sent in June 2023. In this, he set out what had happened and how the matter had caused him untold stress – particularly due to his health problems that included ongoing spinal and neurological issues, as well as clinical depression for which he'd been taking anti-depressants for many years.

Santander didn't respond to this letter and so, Mr M's partner contacted Santander on social media on 1 August 2023. At this point, Santander looked into what had happened and provided their final response to Mr M's complaint on 7 September 2023. In short, they said:

- Mr M's fraud concerns that he raised in October 2022 were referred to the wrong team within their fraud department. It was referred to the correct team on 30 June 2023 with the investigation completed on 17 August 2023 – with it accepted as fraud.
- They'd cleared the outstanding balance on the credit card and closed it. They also confirmed Mr M's credit report had been amended to remove any adverse information registered as a result of the fraud.
- Regrettably, they'd been unable to establish how a third party obtained Mr M's personal details – although they do have robust security systems in place.
- They were sorry for any inconvenience this matter had caused Mr M and, to recognise this, they offered him £200 compensation.

Mr M remain dissatisfied and referred his complaint to the Financial Ombudsman. He explained that he was relieved Santander had cleared the balance and that he hadn't received any more letters demanding payments. But he felt there were aspects of the situation that remained unanswered and were a cause for concern – with Santander glossing over it in their final response.

Mr M found it an astonishing admission that Santander were unable to establish how a third party obtained his personal details – as they have a duty to protect it under GDPR. He felt the bank were attempting to protect their reputation and cover up their deficiencies and negligence. Mr M also emphasised his poor experience which included calls ignored, branch visits not followed up, no-one taking ownership of the issue and his recorded delivery complaint letter not being acknowledged. He stressed that the only reason progress was made after months of suffering was when his partner took to social media to shame Santander into a response. Although Mr M acknowledged the apology Santander had provided, the continuous arrival of statements and threatening letters advising of further action through debt collection agencies that he'd received led to several health crises. And so, the £200 compensation offered wasn't adequate.

Our Investigator didn't think £200 compensation was a fair amount and recommended Santander increase it to £500. She noted Mr M was given an original timescale of 12-16 week for the investigation in October 2022 – and so it should've been completed by mid-February 2023 at the latest. Santander didn't however provide any update at this point and she noted that, during the entire process, it was instead Mr M chasing Santander for updates. Despite this, it took until 18 August 2023 for Santander to confirm to Mr M the debt as fraud. And during this time, our Investigator noted that Mr M had emphasised with Santander the upset and concern caused by the letters he was receiving demanding payment – even though Santander told Mr M they could be ignored.

Our Investigator thought the time it took for Santander to investigate the fraud and the service they provided during it fell below reasonable or acceptable service standards – which warranted the increased compensation, particularly when considering Mr M's ill-health and vulnerabilities. She also acknowledged Mr M's frustration with how the fraudster obtained his personal details, which thereby allowed him to impersonate him on the phone to commit the fraud. But she explained it isn't always possible to determine how a data breach occurs as fraudsters often obtain this information in a variety of ways. And so, Santander wouldn't necessarily have known how this happened for Mr M's situation.

Mr M didn't agree and so the matter has been passed to me to decide. In short, he added:

- Prior to his partner contacting Santander via social media, he hadn't received any written confirmation that any action was being taken to remedy the situation. Yet he continued to receive demands for payment for ever increasing amounts.
- Although he was reassured over the phone to ignore these letters, given he didn't receive anything in writing to confirm this, he did worry – which any reasonable person would. Particularly as, in a modern society where computer systems perform a number of tasks automatically and there is the legitimate perception that things could quickly escalate, and where there has been no written confirmation that someone with authority is investigating the fraud, worry and stress are bound to result.
- It was only after the social media contact when the matter began to be taken seriously. But he would suggest this only happened because Santander's failings were exposed in a public forum and their reputation damaged. It should not be necessary to take such action.

- He's still concerned how his personal data – which was sufficient to obtain the credit card and change his address and telephone number – was used unchecked by Santander. And he finds it strange that a fraudster, that spent nearly £10,000 on the credit card, would've only targeted him through Santander – as surely they would've tried other banks?
- Given this is the only instance of fraud perpetrated against him, he believes the fraud was carried out by an insider at Santander due to a huge hole in their security ring-fence. But while he is speculating, the fact remains Santander have been negligent with his data and he puts them on notice his next step will be to make the Information Commissioner's Office (ICO) aware of his complaint in relation to a GDPR breach.
- This complaint has taken some 287 days to resolve. So, the £500 equates to less than £1.75 per day and so he considers this unacceptable given the stress and anxiety it has caused him. He asked for a substantially revised offer to conclude matters and avoid further action been taken.
- The block on his savings account remains in place and so, depositing any further funds wouldn't be useful.

Our Investigator contacted Santander regarding the block and they confirmed that it was removed on 5 January 2024.

### **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 appreciate Mr M has been the victim of fraud and that Santander's role in what happened contributed to the trouble and upset he suffered. But having given this matter careful thought, and while I know this will come as a disappointment to Mr M, I've come to the same outcome as our Investigator and for largely the same reasons. I'll explain why.

Before I do, I'd like to firstly acknowledge that Mr M has put forward a number of points for my consideration in support of his complaint – along with those he raised with Santander and our Investigator. I want reassure Mr M that I've given careful thought to everything he's said. If I don't mention a particular point however, it's not because I haven't considered or thought about it but I've focussed instead on what I believe to be important to the outcome of this complaint.

It isn't in dispute that Mr M was the victim of credit card fraud – with Santander confirming this to him on 18 August 2023 that there'd been a fraudulent takeover of his account. I don't therefore intend to comment on this further. And as Santander has written off the debt and corrected Mr M's credit report with the relevant credit references agencies, they've put things right as I would've expected. I will however, instead, focus on the customer service issues Mr M experienced and his data protection concerns when deciding what I think is fair compensation.

It took about ten months for Santander to investigate the fraud – far beyond the 12 to 16 weeks they advised Mr M when he first reported it in October 2022. Santander has explained that a large reason for the delay was due to the fraud being referred to the wrong team within their fraud department. So, while Mr M would reasonably have expected the investigation to have potentially taken until around February 2023, based on the timescale he was advised, Santander's error meant the investigation went well beyond this. When the fraud was referred to the correct team, it took about seven weeks for Santander to accept the debt as fraud. And so, had it not been for Santander's error, it's reasonable to conclude that they could've reached their investigation outcome at some point in late 2022.

In circumstances of fraud, it's understandable that the victim will be troubled by the situation – as, for example, there is the worry they could potentially be held liable for the debt as well as the impact it will have on their credit report. Here, it's clear that Mr M was affected by the fraud as demonstrated by his repeated enquiries to Santander as to the progress of their investigation. And despite verbal reassurances the matter was being investigated and that he could ignore the payment demand letters, I think it was understandable for Mr M to have remained concerned about the letters being sent – particularly as he hadn't received any written confirmation of the investigation being undertaken, or that the demand letters could be ignored.

Given the number of occasions Mr M contacted Santander, I think they ought to have identified their error in referring the fraud to the incorrect team sooner than they did. And I think it would've been reasonable to have expected Santander to have sent something in writing to have confirmed the actions they were taking – especially when Mr M specifically requesting this in a July 2023 call (although I think it should've happened sooner than this). Had this happened, it would've reduced the trouble and upset Mr M suffered from the situation as it would've provided him with formal written reassurances that Santander were actively investigating the fraud.

Having listened to various calls Mr M had with Santander, I can also understand his frustration at being given the same update each time – that being the fraud remained under investigation, a timescale couldn't be provided for how long it would take and that he should ignore the letters requesting payment of the debt. I also appreciate that the impact of the fraud put a block on his savings account, thereby causing Mr M more inconvenience. And I think Santander missed a further opportunity to try and rectify the situation when they didn't acknowledge or respond to Mr M's letter of complaint that he sent by recorded delivery in June 2023. I likewise agree with Mr M that it shouldn't have required his partner raising the issue on social media for Santander to start looking into the matter properly.

I'm therefore satisfied that Santander caused Mr M a great deal of trouble and upset that was easily avoidable. Santander also failed to correct their mistake despite having the opportunity to do so on several occasions as a result of Mr M contacting them about the matter. I therefore think the service Mr M received from Santander fell far short of what I would reasonably expect in this situation.

Mr M has also highlighted concerns about Santander's handling of his personal data. He suggests, given this was the only instance of fraud against him, it was likely caused by Santander's negligence in handling his data and possibly committed through the actions of an insider at Santander. While I've considered Mr M's points here, and understand the reasoning behind his suspicions, data breaches that lead to ID fraud can occur in a multitude of ways that are – unfortunately – often not known. And so, while I appreciate Mr M's frustration at the situation, I wouldn't necessarily expect Santander to know how his personal data was comprised unless they had specific knowledge of a data incident that would've caused it. I haven't seen anything to show this, or that the point of compromise for Mr M's personal data came as a result of the actions of an employee of Santander. Because of this, it wouldn't be reasonable for me to conclude that Santander is responsible for Mr M's personal data being compromised. That said, and as Mr M is aware, if he remains dissatisfied with Santander's handling of his personal data then he can refer these concerns to the ICO if he wishes.

I've gone on to consider what amount of compensation is fair in these circumstances. And I'm aware that there's been reference to Mr M's partner being affected by the fraud too – including that there were concerns at the time that adverse credit information being reported against Mr M's address could've affected his partner's business. But while I don't doubt this, or that Mr M needed support from his partner during the ten-month period, I can only

consider the impact of Santander's actions on Mr M here. This is because he is Santander's customer and, under the rules that we operate, an eligible complainant in relation to the debt that Santander sought payment for - which thereby allows me to award compensation.

I also think it would be helpful for me to explain that the role of the Financial Ombudsman isn't to penalise or apply punitive measures for firms that make errors. Instead, we look to put consumers back in the position they would've been in had the error not occurred – which, here, has happened as Santander has written the debt off and corrected Mr M's credit report. I am however able to award financial compensation for non-financial loss suffered, such as the trouble and upset a consumer has experienced due to a firm's error(s). When determining what is a fair amount of compensation however, it isn't necessarily broken down into a daily figure. But rather, I've considered what I think is reasonable to recognise the overall impact of what happened.

Although it seems Mr M didn't suffer a financial loss, I'm satisfied he was clearly affected by Santander's poor handling of the fraud. It took significantly longer than it should have and, despite Mr M contacting them about it on numerous occasions, Santander failed to investigate it as they should have. I also appreciate that the impact on Mr M was likely greater due to the health conditions he's explained he suffers from – as, for example, the stress caused by Santander's mishandling of the fraud investigation was likely exacerbated by Mr M's clinical depression. And so, I have great deal of sympathy for what Mr M experienced.

Naturally, what is considered fair compensation is subjective. But looking at Mr M's situation, I think £500 is a reasonable amount in the circumstances to recognise the inconvenience he suffered – which includes having restrictions on his saving account, having to visit the branch and call Santander on multiple occasions - as well as the worry and stress the potential threat of debt collection letters had on him – despite the reassurance provided by Santander. I also consider the amount to be in line with the Financial Ombudsman's approach to compensation, and that it falls within the range of the type of awards we make. And so, I don't intend to increase it further.

I know Mr M will likely be disappointed by this outcome and that he will still have questions about how the fraud occurred in the first place – due to not knowing how his personal data that led to the fraud was obtained. And I again would like to reiterate that I accept he has been the victim here, as well as pointing out that I consider Mr M did everything he reasonably could have to correct the situation at the time. But having given this careful thought, and for the above reasons, I think £500 is a fair amount of compensation.

### **My final decision**

My final decision is that I uphold this complaint. I direct Santander UK Plc to pay Mr M £500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 May 2024.

Daniel O'Dell  
**Ombudsman**