

The complaint

Miss A complains Santander UK Plc hasn't refunded transactions that she's disputed.

What happened

Miss A has a current account and credit card account with Santander and has been a customer for around 15 years.

Miss A says that there were a large number of unusual transactions on her accounts in April and May 2022 – approximately £4,500's worth – which she contacted Santander to dispute. Miss A says her cards were stolen on three different occasions – once in April 2022 and twice in May 2022 – and that she believes her ex-boyfriend was responsible for the disputed transactions. Miss A says he tricked her at the time, so she didn't realise what was going on.

Santander says it investigated the transactions that Miss A disputed and said that based on the evidence Miss A had provided – and the evidence it had received from third parties, including the police – that there was no evidence that Miss A's PIN had been compromised. In the circumstances, Santander said that it couldn't treat the transactions as fraudulent as they'd all been authorised using chip and PIN. That meant it couldn't refund them.

Miss A was very unhappy with the way Santander had gone about investigating the disputed transactions, and its lack of understanding of her difficult circumstances. She said that Santander had refunded one transaction – worth £60 – to one merchant in particular but hadn't refunded other transactions to that same merchant. More importantly, Miss A said that Santander's declines were based on the wrong information. Miss A ultimately complained to our service saying that she was in massive financial difficulties as a result of this fraud.

One of our investigators looked into Miss A's complaint and didn't recommend that it be upheld. They also said, given the number of times Miss A's card and PIN had been replaced, that it was unlikely Miss A's ex-boyfriend would have been able to discover her PINs repeatedly without Miss A being aware of this. Our investigator calculated that Miss A had disputed transactions totalling £2,263.25. Miss A was very unhappy with our investigator's recommendation. She said that our investigators had got the amounts involved wrong, amongst other things, and hadn't understood her circumstances. Miss A asked for her complaint to be referred to an ombudsman. Her complaint was passed to me.

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.

In February 2024 I issued a detailed provisional decision saying that I was minded to uphold Miss A's complaint given the very insensitive way Santander had handled her claim. I invited both parties to respond to my provisional decision. In addition, I invited Santander to consider refunding some or all of the transactions as a gesture of goodwill or otherwise. One of the reasons why I did that is because Santander had asked for an opportunity to reconsider Miss A's claim in the event that an ombudsman was minded to uphold her complaint. I said I would make a final decision on what award to make once both parties had had an opportunity to comment on my provisional decision, assuming Santander didn't in the meantime come up with a gesture of goodwill that I considered fairly resolves the whole complaint. Both parties responded to my provisional decision and Santander made an offer.

Santander's initial response to my provisional decision was disappointing – it asked me a number of questions that I'd already answered in my provisional decision. Santander subsequently offered to refund £1,950.48's worth of transactions as a gesture of goodwill and agreed to pay the £1,500 I said I was minded to award. Miss A's response to my provisional decision was helpful – and she sent in additional material too – and I've spoken to her at length too. Initially Miss A told me that she was prepared to settle if Santander refunded the £2,263.25's worth of transactions our investigator had identified and pay her £1,500 in compensation. She subsequently asked for more time to comment on the amounts she was disputing. I agreed to give Miss A several extensions of time, but I said that she needed to let me have all of her comments by 30 April 2024 as I planned to issue my final decision this week. Miss A hasn't sent me any more comments since I gave her that final deadline, so I'm going to decide her complaint based on the responses I've had to date.

what next?

In my provisional decision I set out in considerable detail what I thought had and hadn't happened in this case. I did that so that both parties:

- had an opportunity to comment on what had and hadn't happened; and
- had a common understanding of what had and hadn't happened.

In my provisional decision I said that Miss A's evidence had at times been inconsistent. More importantly, I also said that I didn't think it was unreasonable to come to the conclusion that Miss A had, in fact, been taken advantage of, and more likely than not when she's been under the influence of alcohol or drugs. I also said that whilst Santander was technically entitled to hold Miss A liable for the transactions she disputed – there were all done using Miss A's genuine card and PIN – there is an argument in this case that Miss A didn't consent to these transactions.

In my provisional decision I said that it was clear from the calls I'd heard that Miss A was going through a period in her life when she was very vulnerable, and that she had likely been the victim of domestic abuse and had been exploited. More importantly, I said that Santander had dealt with this in a very insensitive way at times – there were instances, for example, of "victim blaming". In a case like this, we'd expect to see a much more positive and sympathetic reaction from a business.

I've spoken to both parties at length since issuing my provisional decision. Santander has, as a result, offered to refund £1,950.48's worth of transactions from the spreadsheet our investigator put together. Both parties have agreed that two transactions on 18 April 2024 and four transactions on 18 June 2024 that our investigator included in their calculations are genuine transactions carried out by Miss A and so don't need to be refunded. Those transactions total £119.14. Santander has, however, said that there's an additional £193.27's worth of transactions on 22, 23 and 24 April 2023 that shouldn't be included in any refund – and has factored this into its offers. I can see that these transactions include transactions Miss A has disputed and transactions similar to ones she's accepted are genuine.

Taking everything into account, I don't think Santander's offer to refund £1,950.48's worth of transactions is unreasonable or unfair given the evidence from both sides. I am, however, going to require Santander to pay 8% interest on any credit balance owing to Miss A once her account has been reworked as I agree it should have acted sooner. In addition, I'm going to require Santander to pay Miss A £1,500 in compensation.

I consider an award of £1,500 in compensation to be appropriate in this case because I'm satisfied that Santander's poor response not only meant it didn't investigate Miss A's claim fairly, but also compounded what was going on in Miss A's life at the time. Santander's poor response has meant that Miss A hasn't been able to move on from what happened and has struggled financially in the meantime too. In short, Santander has caused Miss A long lasting and considerable distress given the way it handled her claim, including the very insensitive way it dealt with her when she was making serious allegations of domestic abuse.

Putting things right

Miss A has told me that she still owes Santander approximately £1,200 on her credit card, that she was charged one late fee as a result of the disputed transactions and that Santander froze the interest on her outstanding balance. So, I'm going to require Santander:

- to rework Miss A's credit card account as if the transactions it has offered to refund hadn't happened, including refunding any late fees and interest Miss A paid as a result of the transactions in question;
- to remove any adverse information it registered as a result of the transactions in question; and

- to refund any credit balance left over to Miss A along with 8% simple interest from the date of payment to the date of settlement.

My final decision

My final decision is that I'm upholding this complaint and going to require Santander UK Plc:

- to refund the £1,950.48's worth of transactions it has offered to refund in the way I've described above; and
- to pay Miss A £1,500 in compensation for the distress and inconvenience it has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 29 May 2024.

Nicolas Atkinson
Ombudsman