

## **The complaint**

T complain that Santander UK Plc (“Santander”) failed to refund transactions they didn’t recognise.

## **What happened**

T are a business who are represented here by Mr S. I’ll mainly refer to him as he was representing the business in this complaint.

Mr S explained that T had an arrangement with a social media platform ( referred to here as M) and made payments to them via the company debit card.

Mr S reported that their account with M had been hacked and numerous payments amounting to over £25,000 had been taken from their Santander account.

Mr S reported the issue to Santander who blocked the card, but further payments were taken. Mr S raised the issue with M who acknowledged their account had been compromised and indicated they would refund the disputed transactions.

Over a number of months, M continued to say they were investigating and made a small refund of around £2,000. To date M haven’t made any further refunds.

Santander declined to make any repayments, advising T that they should raise the matter with M because they had a legitimate arrangement with them to take payments using the debit card linked to their commercial account.

T complained and Santander again declined to make any refunds. T then brought their complaint to the Financial Ombudsman Service for an independent review.

An investigator was assigned to look into the situation and considered information provided by both parties. This included numerous communications with M who confirmed the unauthorised access to T’s account and their intention to refund them for the transactions.

Santander provided audit details and records of T’s account, including their own investigation into the matter.

After reviewing the situation, the investigator concluded that the transactions were unauthorised and recommended Santander refund them and add interest to the repayment.

Santander disagreed with the investigator’s conclusions, specifically the amount of the refund (which wasn’t specified in the investigator’s review) and raised the possibility of a “double refund” if M made the same payments.

Santander attempted to contact M directly but were unsuccessful and were content to wait for a decision on the complaint.

As no agreement could be reached, the complaint has now been passed to me. As part of my own investigation, I wanted to clarify the actual transactions that T were disputing and

based on figures provided by them and the refund received, they've confirmed that the total amount disputed is £28,259.97.

### **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.

The relevant law surrounding authorisations are the Payment Service Regulations 2017. The basic position is that Santander can hold T liable for the disputed payments if the evidence suggests that it's more likely than not that they made them or authorised them, but Santander cannot say that the use of the card details for online payments conclusively proves that the payments were authorised.

Unless Santander can show that consent has been given, it has no authority to make the payment or to debit T's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to T.

It's not our role to say exactly what happened, but to decide whether Santander can reasonably hold T liable for these transactions or not. In doing so, I'll be considering what is most likely on a balance of probabilities.

It's the case here that T had an arrangement with M to take payments from their account using their debit card. M confirmed that numerous unauthorised payments had been taken after T's account had been hacked by persons unknown.

T approached both M and Santander regarding the matter and were told that M were going to refund them. M later made a small refund but haven't provided anything further. Santander declined the refund based on the ongoing relationship between T and M. They believed it was M's responsibility to make the full refund.

If M had made a full refund it would then have been appropriate for Santander to decline anything further as this would mean that T would have been in a better position than prior to the incident taking place. But, that isn't the case here because after many months of contact, it appears that M have stopped responding and their earlier commitment to fully refund now seems unlikely.

So, the issue of whether the transactions were authorised or not is one for me to determine and given the confirmation by M that T's account was compromised, it seems more likely than not that the payments reported by T were unauthorised.

At the time, Santander had the opportunity to use the Chargeback system to challenge the payments, but given the strict time limits, that's no longer an option. As I've found that it was more likely than not that T weren't responsible for the transactions they've disputed, I think it's both fair and reasonable for Santander to now make a refund based on the figures confirmed by T. That amounts to £28,259.97 which is to include simple interest at 8% per annum from the date of the payments until the date they're finally repaid. Given the nature of the loss which was outside the control of Santander, I won't be asking them to pay anything further to T.

If M do make a payment for the disputed transactions before Santander complete their own refund then it wouldn't be appropriate for T to receive a double refund. In such a case I'd expect T to inform Santander if they receive any further refunds from M.

**My final decision**

My final decision is that I uphold this complaint against Santander UK Plc and they're instructed to settle it as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 28 August 2024.

David Perry  
**Ombudsman**