

Complaint

Mr M complains that Santander UK plc closed his account without notice following a transaction on his account which it suspected to be fraudulent.

Background

Mr M sold a car to someone who I'll refer to as Mr A. Mr A paid him a deposit of £200 and, a couple of weeks later, the balance of £15,300 when he collected the car. The money was credited to Mr M's business account (he is a sole trader), by same day online transfer. When the balance was received, Mr M transferred the whole amount out of his account by same day online transfer to another third party to whom he owed money.

The following day, Santander closed his account. It told him it had decided to withdraw its banking facilities following a fraud investigation.

Santander said it'd been contacted by Mr A's bank. It said Mr A claimed the transactions were fraudulent and that his account had been compromised.

Mr M appealed the decision to close his account and provided some paperwork to show that the money was for the sale of a car.

When Santander contacted Mr A's bank with this further evidence, that bank said it didn't have a record of any fraud investigation or any contact from Mr A to dispute the transactions.

Santander apologised to Mr M and reopened his bank account, reassuring him that there were no concerns about any fraudulent activity on his account. Mr M complained about what had happened and asked for compensation for the distress and inconvenience he'd been caused.

Santander paid him compensation of £200. Mr A didn't think this reflected the time and money he'd wasted trying to put things right, or the stress it caused him.

Our adjudicator thought Santander should have kept better records of what had prompted its fraud investigation – it couldn't show us evidence that it'd been contacted by the third party bank. He thought Santander should pay Mr A an additional £150.

Santander agreed.

Mr A didn't agree with our adjudicator. He said he wanted £4,200 to reflect the 14 days he'd had to spend trying to sort this all out, using his daily rate of £300. He said, in summary, that:

- He'd spent time on the phone every day speaking to Santander and to Mr A.
- He reported this as a fraud to the police and told it the car had been stolen. He could have been arrested for wasting police time; if the car had been found it would have been impounded and he would have had to pay to get it back.
- He has lost friendships and his reputation and people won't now do business with him.
- If he hadn't pursued this, he would have been left with no money, no car and no banking facilities.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Anti-money laundering regulations and UK legislation (which includes the Financial Services and Markets Act 2000, the Proceeds of Crime Act 2002, the Money Laundering Regulations 2017 and the FCA's financial crime requirements) place extensive obligations on regulated financial businesses to verify customers' identity, establish the purpose and intended nature of the business relationship and the origin of funds. Businesses are also required to carry out ongoing monitoring of an existing business relationship and scrutinise transactions to ensure they're consistent with the business' knowledge of the customer and their expected business patterns.

Taking these obligations into consideration, I need to decide if Santander acted reasonably in closing Mr M's account.

The account terms and conditions allowed Santander to close Mr M's account without notice,

"... where we are aware that keeping your account open would be unlawful or cause us to be in breach of any of our legal or regulatory requirements." [19.3]

Santander says it received a phone call from Mr A's bank and that Mr A claimed his account had been compromised and the transfers of £200 and £15,300 into Mr M's account were fraudulent. But Santander hasn't been able to provide a recording of that call, or a proper record of it. Mr A's bank told us it has no record of a call being made. It says it never received any claim from Mr A that his account had been compromised or that he hadn't authorised the transactions.

So, on balance, I don't think Mr A's bank contacted Santander about these payments.

But I can see why Santander may have identified these transactions as unusual for other reasons. Mr M received more than £15,000 into his business account from a third party and, almost immediately, Mr M transferred the money out of the account. I don't think these transactions were "*consistent*" or in line with Mr M's "*expected business patterns*". So I think Santander may well have acted reasonably in wanting to investigate these transactions.

But – in the absence of either party disputing these transactions, and with Mr M being able to provide evidence that he'd received the money for the sale of a car – I think Santander would've concluded fairly quickly that there hadn't been any fraudulent activity on Mr M's account and it wouldn't have closed it.

Santander closed Mr M's account on 15 November 2017. It reinstated it just over two weeks later. I think it should compensate Mr M for the distress and inconvenience it caused. It's agreed to pay Mr M £150 in addition to the £200 it's already paid. I think it should pay more than this – but not as much as Mr M would like. Let me explain why.

Mr M thought the money he'd paid to someone he owed was going to be recalled; and that the money would then be returned to Mr A. This would effectively have left him with no car, and no sale money for that car. He was worried about his relationship with the person he owed money to – and how he would be able to pay that debt. And he says his relationship with Mr A broke down because Mr A felt Mr M was accusing him of fraud. This must have been very stressful for Mr M. The transactions took place on his business account, but the sale and purchase of cars doesn't seem to be Mr M's trade. So the sale of a car seems to have been a one-off transaction. Mr M hasn't provided evidence to show that his business has been affected by the breakdown of his relationship with any parties involved in this transaction. So whilst I think he should receive some compensation for the distress caused, without any evidence of the further losses he's mentioned, I don't think I can fairly tell Santander to pay for these.

Santander told Mr M that Mr A had reported the transactions as fraudulent. Mr M reasonably thought he'd been a victim of fraud. He reported this as a crime to the police; and the police reported the car as stolen. This would have been time consuming for Mr M and added to his distress. He worries about what *might* have happened as a result of his report. But his worries didn't materialise. Whilst I don't underestimate the distress Mr M felt, I don't find he should be compensated for something that *might* have happened.

Mr M says he wants to be compensated at his daily rate of £300 for 14 days. But, whilst I don't doubt this was time consuming for him to resolve, he's not evidenced that he lost out on work for 14 days solely as a result of Santander's actions. And I think it would be difficult for Mr M to evidence what business he might have completed during this period if it hadn't been for the time he'd had to spend on this.

Mr M hadn't done anything wrong and Santander caused him a lot of distress and inconvenience, including time spent reporting this to the police. I think it would be fair and reasonable for Santander to pay him £300 in addition to the £200 it has already paid.

My final decision

My final decision is that Santander UK plc should pay Mr M £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 December 2019.

Elizabeth Dawes
ombudsman