

complaint

Miss E complains about the manner in which Santander UK Plc has dealt with her and her account after transactions - that she disputes being responsible for – took place.

background

Our adjudicator has explained at some length the history of events related to Miss E's concerns and shared her findings and conclusions with both parties. As the circumstances have been unveiled as the adjudicator's handling of the complaint has progressed – and the events are largely undisputed by both parties – I need not go into great detail here.

In short, Miss E was receiving her state benefits into the account but she moved home a number of times and despite the bank being notified of her new addresses, the bank sent new cards and personal identification numbers ("PINs") to her old addresses. Miss E says she was not receiving statements and not really using her account so did not notice a significant number of transactions that she was not responsible for. At times, more than one debit card was active on Miss E's account.

Disputed transactions took place involving more than one retailer – and over a lengthy period - with their total value being over £2,300. There was some dispute between the parties as to the precise value of the disputed transactions but it seems to be commonly accepted that the value of the disputed transactions have been refunded bar £2.02.

The adjudicator noted that while Miss E was suffering difficulties with her account, she had significant personal difficulties which affected her health, as well as that of her baby, her card was blocked and she had trouble using cash machines. Making branch withdrawals was problematic and inconvenient for her.

Also, as a result of the disputed transactions, Miss E incurred charges on her account for being overdrawn which she would not have otherwise incurred. Ultimately, she has been left with a debt which she says she should not have. And Miss E has been caused distress and inconvenience in other areas of her life as a result of the impact that Santander caused by operating the account as it has. Miss E also claimed that the cost of telephone calls should be reimbursed and Santander has refunded the full £160 of those.

The adjudicator concluded that Miss E's account should have been closed when it was compromised, given the nature of the state of the account and the disputed transactions that took place.

From when fraud first occurred on the account, the adjudicator noted that overdraft and failed direct debit and standing order charges had totalled £435 of which £262 had been refunded, leaving £173 that the account has incurred. But the adjudicator did not consider Miss E should have to pay those charges as they resulted from the disputed transactions and the fact that the account was not closed earlier.

Charges of £150, made up of £10 monthly fees, did stop after a while but the adjudicator considered that these also would not have been incurred if the account had been closed more promptly. So the adjudicator recommended they should be refunded too.

The adjudicator considered that Miss E should be compensated for Santander's poor complaint handling and for various aspects of what has gone on and which have caused Miss E significant distress and inconvenience, such as where Miss E was not able to use a cash machine for nearly a year and had to go to a branch to make withdrawals.

She also considered that Miss E should not have to repay the outstanding balance on the account given that it should have been closed much sooner and Miss E was only transferring out of the account, in creating that balance, sums that she thought were the genuinely available balance on the account. If the charges had been refunded more promptly, the adjudicator did not consider that the debt would have accumulated. That said, she did not recommend that the balance on the account be written off.

In light of that, the adjudicator considered that the bank should pay to Miss E £400 compensation for the upset and inconvenience she had been caused and £226, the amount needed to repay the account balance. Of that amount, Santander has already paid £140 compensation to Miss E so the adjudicator recommended that the bank now pay £486 to Miss E (the adjudicator actually recommended the bank pay £586 as a result of a mathematical error).

In conclusion, the adjudicator recommended that Santander

- refund the balance of the value of the disputed transactions, still to be refunded, £2.02;
- refund charges totalling £323; and
- pay Miss E compensation for distress and inconvenience, and in respect of the balance left remaining on the account, of £486.

Miss E is aware of the resolution to the dispute proposed by the adjudicator and is satisfied with it. Santander has not agreed to settle the dispute on the basis proposed as it considers that it has done enough already in recognition of its flawed dealings in this matter.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same findings and conclusions as the adjudicator.

There are a limited amount of findings that I need to make in respect of this complaint. It is not disputed that there were transactions on the account that Miss E was not responsible for and given that there were aspects of how the account was administered, that cards and PINs were issued in the manner they were, and the bank's handling of the matter from when disputed transactions were first taking place, I consider it is fair and reasonable that I make an award that Santander do more than it already has.

I need not comment on the need for Santander to pay £2.02 to Miss E beyond acknowledging that this would mean that the full amount of disputed transactions – as identified by the adjudicator and not said to be incorrect by Miss E – will have been refunded.

As regards the charges, I agree with the arguments presented by the adjudicator in saying that these would not have been incurred if the bank had not inadequately administered the account and had dealt more properly with matters during the period from when the disputed transactions started. Santander ought therefore refund to Miss E the value of the charges and, for related reasons, I agree that the bank should not require Miss E to repay the outstanding balance on the account – which is of course created, at least in part, by the application of charges. I do not consider that the equivalent sum ought to be paid to Miss E though; Santander ought to write off that debt.

Finally, I agree that Santander ought to pay to Miss E the amount of £400 compensation – of which £140 has already been paid.

my final decision

My final decision, in full and final settlement of Miss E's complaint, is that Santander UK Plc should:

- refund to Miss E the balance of the value of the disputed transactions, still to be refunded, £2.02;
- refund to Miss E charges totalling £323;
- write off the balance on the account, £226; and
- pay Miss E compensation for distress and inconvenience, and in respect of the balance left remaining on the account, of £260.

Ray Neighbour
ombudsman