

The complaint

Mr D complains Santander UK Plc didn't do enough to protect him when he was the victim of a lottery scam.

What happened

Mr D has an account with Santander and has been a customer of theirs for many years. He's almost 90 and lost his wife a couple of years ago. He now lives in an assisted care facility.

Mr D received a letter in August 2022 telling him that he'd won £900,000 in a lottery. He believed the letter was genuine, so he sent a cheque for £900 when he was told he'd have to pay a 0.1% clearance charge in order to receive his winnings. Having paid this, he was given several other reasons why he needed to make more payments to receive his winnings. He was, in fact, speaking to scammers and ended up paying them over £66,000.

Mr D confided in a family member at the beginning of March 2023 what had happened as he was worried that his life savings had gotten low. The family member realised Mr D had been scammed and got him to report the matter to the police and Santander straightaway.

Santander wrote to Mr D on 21 March 2023 to say that it was sorry to learn he'd been scammed and that its investigations were ongoing but that it hadn't made a mistake. Santander wrote to Mr D again on 29 March 2023 acknowledging that he'd been through a very distressing and unpleasant experience and offered to refund £39,630 as a gesture of goodwill in order to alleviate that distress. Santander subsequently transferred an additional £6,000 back into Mr D's account – money it recovered. Mr D was unhappy and complained.

Santander looked into Mr D's complaint and wrote to him on 18 May 2023 to say that it had concluded its review and had decided that he was partly liable for the loss as he didn't complete relevant checks before making the payments. Mr D still didn't think Santander had done enough as he thought Santander should have spotted the sudden and rapid change in his account's activity and that it should refund the whole amount as it had failed to do so. So, he complained to us with the help of a family member. He also thought it was wrong of Santander to blame him for what had happened.

One of our investigators looked into Mr D's complaint and agreed that Santander should have noticed the unusual activity on Mr D's account when he tried to make a payment on 18 October 2022. So, they recommended that Santander refund an additional £6,600. Mr D accepted. Santander didn't for various reasons. So, Mr D's complaint was referred to an ombudsman for a decision and 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.

I've spoken to both parties and having done so everyone agrees that Santander should have intervened on 28 October 2022 as the activity on Mr D's account was unusual by that stage.

Everyone also agrees that had Santander done so the scam would have come to light and that this would have prevented Mr D from making £45,630's worth of further losses. That is, in fact, how much Santander has refunded in this case which everyone also appears to agree is too much of a coincidence. In the circumstances, I consider it more likely than not that Santander accepted when Mr D complained that it should have intervened on 28 October 2022 but didn't do so, and that the right thing to do in the circumstances was to refund the losses that it could have prevented.

Had Santander explained that it should have done more to protect Mr D, rather than saying it was going to refund him as a gesture of goodwill and that he was partly to blame, I'm satisfied that Mr D would have been able to move on from this scam much earlier. Instead, he continued to feel that he was in some way negligent or to blame, and I'm satisfied that this has caused him significant feelings of guilt. So, I explained to both parties that I wasn't minded to require Santander to refund the additional £6,600 our investigator had recommended – as I felt Santander had already refunded the losses it could and should have prevented – but I was minded to make an award for the unnecessary distress Santander had caused as a result of the way it went about the refund.

Both parties agreed that what I was proposing was fair. So, I asked Santander to make an offer to see if this complaint could be resolved without further involvement from me. To its credit, Santander accepted that it could and should have done more and that it had caused Mr D unnecessary distress and inconvenience and offered £500 in compensation.

I let Mr D's representative know about Santander's offer and, at the same time, sent them our guidance on how we approach awards. That guidance includes a case study involving a consumer who's been the victim of fraud whose claim the business handled badly where we awarded £500 in compensation. In other words, an amount in line with what Santander offered.

Mr D's representative said, in response, that they thought an award of at least £2,000 would be more appropriate. Mr D's representative mentioned that it has been really distressing for close family to watch what Mr D has been through. They've also said that they understand that it wouldn't be fair to tell Santander to pay compensation for the distress the original scam caused – that's down to the scammer.

Putting things right

Having considered the facts of this case carefully, I agree that Mr D has been impacted more than the consumer in the example we give in our guidance. In that case the consumer had been caused several months of worry, and sleepless nights. In Mr D's case I'm satisfied that he was not only made to feel he was to blame for several months, but that Santander's response caused him "additional misery" and took him "to a very dark place".

In this case, I don't doubt that the way Santander handled Mr D's claim has had a wider impact on Mr D's family. Our awards are, however, based on the impact on the consumer. So, it wouldn't be fair for me to take that wider impact into account. Nor would it be fair for me to tell Santander to pay compensation for the distress the original scam caused. That's down to the scammer – a point Mr D's representative already accepts.

Given what I've said about the case study in our guidance and the distinguishing factors in this case, I think an award of £750. So, that's the amount I'm going to award.

My final decision

My final decision is that I require Santander UK Plc to pay Mr D £750 in compensation for the unnecessary distress he's been caused in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 21 March 2024.

Nicolas Atkinson
Ombudsman