

The complaint

Mr D complains, with assistance from a representative, there have been over 30 unauthorised transactions totalling over £700 from his Santander UK PLC account between July and October 2023.

What happened

There are two parts to Mr D's complaint. Firstly, Mr D disputes two transactions which occurred on 24 July 2023. These were a cash withdrawal of £250 and a payment to a service provider of £36. Mr D's representative says Mr D was with his carer in East London at the time of these transaction, which occurred in Central London, and he therefore could not have made them.

The second part of Mr D's complaint is regarding online payments to a single online named service provider Mr D says he did not authorise. Mr D believes there are approximately 30 transactions between 19 August and 18 October to this service provider.

Mr D's representative explained Mr D suffered an injury to his brain and has sadly been left with limited mental capacity and is vulnerable. In his complaint letter, via his representative, Mr D explained he had; *'spoke to someone giving them some of my personal details without realising what could happen'*. Mr D's representative also said Mr D *'does not understand the implications of his actions.'* Mr D's representative said they believed Mr D had thought he had been talking to a friend when he had given out his personal details.

Mr D complained to Santander about both sets of transactions. Santander did not uphold either part of the complaint. It wrote to Mr D explaining the transactions on 24 July were authenticated by chip and PIN. Santander said Mr D's debit card was presented during both of these transactions, with the correct PIN entered. It explained Mr D had confirmed his debit card had remained in his possession throughout this period and was still in his possession when he raised the complaint on 26 July. Santander said these transactions could have only occurred if someone had taken his card and knew his PIN, and then returned it. Santander said it was satisfied the evidence suggested Mr D had not given his debit card to anyone else.

Santander did not uphold the complaint regarding the online transactions. It explained the transactions had been made by Mr D's usual mobile device using an IP address consistent with non-disputed transactions he had made.

Mr D therefore complained to our service.

Our investigator thought Mr D had authorised all the transactions complained about and recommended not upholding Mr D's complaint. He agreed the evidence provided by Santander suggested both transaction on 24 July were made using his debit card and authenticated by chip and PIN whilst the debit card was still in Mr D's possession. Our investigator therefore thought it was unlikely the transactions were not authorised.

He also explained the evidence Santander had provided showed the transactions for the online services were made using his usual mobile phone and were made from an IP address Mr D regularly used for genuine payments.

Mr D's representative explained Mr D disagreed with our investigator's recommendations. They explained it was not possible for Mr D to have been in a Central London to make the two purchases yet make a further purchase at a supermarket in East London later. They also provided a written, signed statement from Mr D's carer explaining he was with Mr D throughout and they were in East London during the time of these two transactions.

The carers written account, dated 16 February 2024, says Mr D made a transaction at a supermarket in East London for precisely £8 at 1.15pm. Mr D's representative has claimed the time of a transaction shows Mr D could not have made the transactions in Central London.

As Mr D rejected our investigators recommendation, his complaint has been passed to me to make a final decision.

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.

Where evidence is incomplete, inconclusive or contradictory, I have to make decisions on the balance of probabilities – that is, what I consider is more likely than not to have happened in light of the available evidence and the wider surrounding circumstances.

I have carefully considered the evidence Mr D and Santander have provided when making my final decision. I appreciate how strongly Mr D and his representative feels about his complaint. Although I may not mention every point raised, I have considered everything but limited my findings to the areas which impact the outcome of the case. No discourtesy is intended by this, it just reflects the informal nature of our service.

Dealing with the two disputed debit card transactions on 24 July first, Santander have provided evidence to our service which supports its position.

I have thoroughly considered this evidence and am satisfied the transactions were made using Mr D's debit card and the transactions were authenticated by chip and PIN. I am also conscious Mr D has confirmed he had his debit card with him and had not given it or his PIN to any third party.

The evidence provided by Santander shows the transaction at the supermarket in East London was in fact made at 1.44pm not 1.15pm. The transactions in Central London happened at 12.27pm and 12.49pm. I understand, in response to our investigator's recommendation and Santander's final response, Mr D's representative said it was not possible for Mr D to have travelled to Central London and provided evidence, via a written statement from Mr D's carer, he remained with Mr D in East London throughout the period in question for the two transactions. They query whether Mr D's card had been cloned.

I am aware Mr D's representative obtained a signed statement from Mr D's carer explaining he did not travel to Central London on the date and times in question. I have considered this carefully as part of the overall evidence. I have weighed this up against the evidence we have from Santander and the evidence Mr D has provided about his card and PIN. I am satisfied the timeframe for the transactions on 24 July does allow for these transactions to

have been made both in Central London and East London. On the balance, I am persuaded no-one else could have made these transactions.

Furthermore, I have considered these transactions from a fraud perspective, I think the pattern does not follow what we would usually see where fraud is committed by an unknown third party. There were only two transactions, which were both successful, for relatively small amounts. There were further funds in Mr D's account at the time, and a balance enquiry was undertaken at the ATM shortly before the cash withdrawal, which would have shown more funds were available. In similar circumstances, where fraud or unauthorised transactions occur, it is often the case the perpetrator of the fraud will attempt to withdraw as much as they can as quickly as they can before the account is blocked. This is not the case here and no further attempts appear to have been after these two transactions. I think this supports, on balance, Santander's position.

I would also add, as far as our service is currently aware, it is not possible to clone cards and use them in this way.

For these reasons, I think Santander have done enough to satisfy the requirements of proving, on the balance of probabilities, Mr D authorised these two transactions on 24 July. I therefore do not uphold this part of Mr D's complaint.

I will now consider the online transactions Mr D has complained about. For the purposes of this part of the decision, I am considering the 30 transactions to one singular online service provider at the same time.

Santander have provided our service with details of the device, namely Mr D's mobile phone, and an IP address, which has been used for genuine transactions. These match the details for these alleged fraudulent transactions.

I have carefully considered the comments made in response to Santander's final decision in relation to these disputed transactions regarding passing information to a third party. It is not clear from the evidence I have seen exactly what information was provided to the third party Mr D spoke with, and whether this was online, over the telephone or in person, despite our investigator asking for some clarification from Mr D. There is evidence within Santander's case file Mr D's representative said to Santander Mr D had been *'chatting with females online and provided them with details'*. I also note here Mr D said he provided *'personal'* details not bank account details, which on their own would not be enough to authorise such transactions.

The evidence I have considered from Santander shows the transactions were made from Mr D's own mobile device and from an IP address he regularly used for genuine transactions. I can also see from his statements Mr D regularly makes similar transactions to other online service providers for similar amounts.

For these reasons, I consider it unlikely these transactions could have been made by a third party, as they would have needed access to Mr D's mobile phone and a specific internet connection he regularly uses. I am satisfied on the balance of probabilities all these transactions were authorised by Mr D, I therefore do not uphold this part of the complaint.

I appreciate Mr D may be dissatisfied with my final decision and has mentioned court action during the complaint process if our service did not uphold his complaint. The Financial Ombudsman Service is an alternative to Court and doesn't replicate its role. To be clear, if Mr D rejects this decision, he can still pursue legal action.

My final decision

For the reasons I have given, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 12 June 2024.

Gareth Jones
Ombudsman