

## **The complaint**

Mr Y complains Santander UK Plc have withheld his funds and refuse to give them back to him.

## **What happened**

In 2018, Santander restricted Mr Y's account after he received a transfer of around £6,300. Santander contacted Mr Y about this payment to establish his entitlement to it given it was out of character with the way the account had been run previously.

Santander wasn't satisfied with Mr Y's explanation and information he'd provided, so it withheld the £6,300 and decided to close the account. Any other funds in the account were returned to Mr Y.

Mr Y referred his complaint to this service in 2018, and that has been resolved, and closed, under a separate reference. Mr Y says he now has new evidence for this service to consider relating to their proof of entitlement to the £6,300. Mr Y says he received these funds from the sale of an overseas property.

One of our Investigator's initially said we shouldn't consider this complaint as the subject matter had already been dealt with previously. But another Ombudsman said that as Mr Y had provided material new evidence, we should look at the merits of his complaint. Mr Y has added that Santander's actions are discriminatory.

So our Investigator went onto consider the merits of Mr Y's complaint considering the new evidence he had provided. After doing this, they recommended Mr Y's complaint isn't upheld – so they didn't think Santander should return the £6,300 to him.

Some of the key findings they made were:

- Santander took reasonable steps when asking Mr Y about his source of his funds given the transaction was unusual activity for his account. And Mr Y's testimony was inconsistent about the source of funds. So it's understandable why Santander didn't release the funds
- The information Mr Y has sent in doesn't show a clear reference to a sale matching the value of funds received by him. They also refer to ground rent payments for a lesser value
- The evidence Mr Y has sent in doesn't link the funds Mr Y received to that of a sale of property – so they won't be asking Santander to return the funds
- Santander says it is willing to return the funds to the source account if an indemnity from the remitting bank is made. But no such request has yet been made
- Having looked at all the evidence, Santander hasn't discriminated against Mr Y nor that it has treated him any differently to other customers. And Santander has followed its own processes during the account review, which are in line with the terms and

conditions of the account.

Mr Y did not agree with what our Investigator said. He has made several points – some of the main one's are:

- The paperwork referred to showing the ground rent is part of a suite of documentation relating to the transfer of the deed of land from a local chief to the buyer. Mr Y was the seller and had to go to the local chief for some payments to be made as they were the original holder of the deeds
- The buyer of the land's bank has flatly been refused by it to indemnify the transaction. Mr Y gave the land to the buyer, a relative, in goodwill
- The original inconsistencies about the source of funds happened because Mr Y lives abroad, and his daughter received a call from Santander – and she didn't know whether he was expecting any funds. Mr Y's son then got involved and said the funds came from a car sale given his father, Mr Y, had discussed selling it previously
- Mr Y emphasised that he is being discriminated against based on a protected characteristic – his race and country of birth
- Due to his age Mr Y can be forgetful which might explain the inconsistent and inaccurate testimony

As Mr Y didn't agree with what our Investigator said, the complaint has been passed to me to decide. To be clear I will only be considering Santander's actions in relation to withholding around £6,300 which Mr Y says he received from the sale of an overseas property.

### **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.

Having done so, I've decided not to uphold this complaint. I know this will disappoint Mr Y, so I'll explain why.

From the information I've been sent, I'm satisfied the transaction of around £6,300 was sufficiently unusual based on Mr Y's account activity and known profile. So I'm persuaded Santander did nothing wrong when restricting and withholding the funds subject to receiving satisfactory proof of its origin.

It's worth noting banks, as regulated businesses, must comply with extensive legal and regulatory obligations. These generally cover the entire period of its customer relationship – from application to eventually the end of the relationship. This includes Know Your Customer (KYC) checks and/or Customer Due Diligence (CDD).

So any refund of funds should be subject to these checks. It's worth noting these checks include not just the verification of a customer's identity, but also establishing the purpose and intended nature of the business relationship and origin of funds.

I've seen Santander's internal notes, which include contemporaneous records of phone conversations it had when enquiring about the origin of the funds. I'm satisfied there were significant inconsistencies which would have caused Santander concern.

Mr Y's son has said he said it was a car sale and he was mistaken. He's also said that Mr Y

is often forgetful. I also note that the remitter, via his bank, said the funds were sent to support family. Having considered this, and Mr Y's explanation that he sold a family member land abroad, I'm persuaded the level of inconsistency, in of themselves, meant Santander did nothing wrong by holding onto the funds.

This brings me onto the information Mr Y and his son have sent us recently which they say shows the money received into the account was from an overseas land sale. Having carefully reviewed this information, I'm persuaded – on balance – that this information still doesn't show Mr Y's entitlement to the funds.

I say that because none of the documentation shows Mr Y was the owner of the land and that he sold it to his family member. Mr Y has said as much in his response to our Investigator's view. I note Mr Y says the local chief was the original owner of the land, so he had to go to him for some payments to be made. But from what I've seen, it appears the chief was the owner of the land – any not Mr Y. So I can't say Mr Y sold land he owned which funded the money paid to him.

Nor have I seen anything which shows the amount paid to Mr Y being consistent with any sale of land these documents relate to. I also find it peculiar that a ground rent document is relative here given Mr Y says he was selling the land.

Mr Y says he feels Santander has discriminated against him due to his race and country of birth. I'd like to assure Mr Y that I've very carefully considered everything he's said about this. And I want to make clear I do not doubt how genuinely he feels about this matter and the upset Santander's actions have caused him.

But I've not seen any written policy document to that effect. Nor have I seen anything else which shows Santander was treating Mr Y differently because of a protected characteristic. And while I appreciate this is his perspective, it is not my role to decide whether discrimination has taken place as a matter of law – only the courts have the power to decide this.

I have, however, considered the relevant law in relation to what Mr Y has said when deciding what I think is the fair and reasonable outcome. Part of this has meant considering the provisions of The Equality Act 2010. But after doing so I've not seen evidence to indicate Mr Y was discriminated on the grounds of his race or country of birth. So I haven't found that Santander's behaviour was improper.

Instead, and as I've said already, there are many regulations and laws banks must take heed of in running customer's accounts. And it is in relation to those obligations that I find Santander's decision to continue withholding Mr Y's funds was made.

### **My final decision**

For the reasons above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 13 October 2023.

Ketan Nagla  
**Ombudsman**