

The complaint

Mr M complains that Santander UK Plc won't make any form of refund for a payment made on his debit card for a mobility scooter.

What happened

In August 2022 Mr M used his Santander debit card to pay a deposit of £2400 towards the total cost of £3600 for a mobility scooter. Within days he felt that this was a scam and reported it as such to Santander. He also contacted the merchant to cancel the order for the scooter at that time. Santander declined Mr M's claim that the transaction shouldn't be applied to his account because the transaction was properly carried out. So Santander raised a chargeback with the merchant who defended the chargeback by providing the signed invoice and noting Mr M still had to pay the £1200 outstanding. Mr M never got the scooter and never paid the outstanding £1200. So Mr M complained to Santander.

Santander considered Mr M's complaint. It noted that the '*bespoke items cannot be cancelled*' box on the signed invoice is ticked. So it concluded that it had been agreed that the provision of the scooter couldn't be cancelled. It had raised a chargeback which had been defended by the merchant. So it decided continuing with the chargeback process didn't have a reasonable prospect of success. So it didn't do so. And it didn't uphold Mr M's complaint to it about this.

Mr M didn't think this was fair, so he brought his complaint to our service. Our investigator looked into the matter. Overall, she didn't think Santander had acted unfairly by declining Mr M's request for a refund. Mr M didn't agree. So the complaint has been passed to me to decide.

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 should make very clear that this decision is not about the merchant, which isn't a financial services provider and doesn't fall within my remit. I can see from Mr M's representations to the Investigator that Mr M is (understandably) focusing on the actions of the merchant. However whatever the issues there maybe with the Merchant and just because Mr M feels he's lost out, it doesn't necessarily follow that Santander has treated Mr M unfairly.

Santander's role in the matter is to be considered only under the Chargeback rules in place as this transaction was on Mr M's debit card. The Chargeback rules are under a voluntary scheme and consumers do not have a right to a chargeback being raised. It is the case though that this Service considers raising a chargeback to be good practice. Santander can only be held responsible if it has failed in some way. And the question of whether or not Santander has treated Mr M fairly is the only question I can decide upon in this decision. This is an important distinction which I hope I've made sufficiently clear.

Mr M accepts the transaction was made on his debit card and doesn't dispute the amount, date, or other aspects of the transaction itself. Having looked into the matter I'm satisfied the transaction was properly authorised by Mr M and correctly applied to his debit card account with Santander.

could Santander challenge the transaction through a chargeback?

In certain circumstances, when a cardholder has a dispute about a transaction, as Mr M does here, Santander (as the card issuer) can attempt to go through a chargeback process. I don't think Santander could've challenged the payment on the basis Mr M didn't properly authorise the transaction, given the conclusions on this issue that I've already set out.

The chargeback process is governed by the card scheme which isn't run by Santander and is run on an automated coded basis according to standardised types of dispute reasons such as 'transaction not processed' or 'goods/services not as described'. It is not designed to be a process to solve all types of disputes but rather a straightforward process for card providers to challenge transactions through the system provided by the card scheme provider and to give merchants opportunity to defend such challenges. Here Mr M has made a large number of arguments many of which would be relevant within a legal challenge between him and the merchant directly, but most of which are not material to whether Santander treated Mr M fairly in its consideration of the response from the merchant and its obligations in such matters.

Santander did raise a chargeback in this case which it wasn't obliged to do. So clearly, at origin, it supported Mr M in his dispute with the merchant.

The Merchant responded to the chargeback by providing the invoice to the sale and noting there was money outstanding. Santander considered this and noted that the '*bespoke items cannot be cancelled*' box had been ticked and that the document was signed by both parties. Mr M says now that the item isn't bespoke as it's a standard mobility scooter. There is no definition of what constitutes 'bespoke' in the terms and conditions, but they do say that orders made for consumer specifications cannot be cancelled. Bearing in mind this box is ticked and both parties sign the document, I don't think Santander has treated Mr M unfairly by concluding that the non-cancellable nature of the product was agreed at the point of sale. And accordingly the sale couldn't be cancelled.

Clearly Mr M disagrees with this and points to various legal arguments around this point which are in essence those between him and the merchant. But that's not the test here. The test is whether he's been treated fairly by Santander in its consideration of the chargeback defence provided by the Merchant. And I don't think Santander has treated him unfairly.

Bearing in mind he sought to cancel the purchase very quickly and that was one of his key arguments originally when he went to Santander, I don't think Santander has raised the wrong chargeback reason or treated him unfairly by deciding not to take the chargeback process further considering the evidence at the time.

I've considered the temporary refund Mr M received. I can see a letter from Santander which makes clear that it is a temporary credit to his account which may be re-debited if the dispute is unsuccessful. So I don't think Santander has treated him unfairly in that regard.

Accordingly it is my position that this complaint doesn't succeed. But in the interests of completeness I'll address some of Mr M's arguments.

Mr M asks many questions such as whether Santander investigated the merchants background and legitimacy, whether they looked into its commercial practices and whether

the text messages Mr M puts forward were adequately considered. It isn't Santander's role to do such investigations in a chargeback process. It is to raise a chargeback if it has a reasonable prospect of success and to continue with it whilst it has a reasonable prospect of success based on the information it has received from the parties. I've considered the text messages and it's clear the merchant caveats the refund based on the order being cancelled with the factory and or by the accountant. So I don't think the text messages make a material difference to the matter here as far as Mr M is concerned. Indeed when considering the text messages and Mr M's comments about discovering that the scooter was available elsewhere, cheaper, and sooner (after agreeing to make this purchase) it could be concluded that Mr M didn't want to go ahead with the purchase due to concerns regarding its price and availability. So I'm not persuaded that Mr M has pointed persuasively to things that Santander has done wrong. And just because Mr M feels he's lost out here it doesn't necessarily follow that Santander should refund him.

Mr M argues that the response of the merchant to the chargeback should be tested because that's what happens in a court of law. But chargeback is a voluntary process and banks aren't obliged to raise chargebacks. And they aren't obliged to test the responses of merchants either and aren't responsible for such responses. So Santander hasn't treated him unfairly by not launching an investigation of the magnitude that Mr M suggests is warranted.

Mr M says the merchant has broken the law and this service and Santander aren't helping. However Mr M did tell the merchant not to send the goods and asked for a refund having agreed to not being able to cancel the order. Santander looked at the evidence available and considered the chargeback no longer had a reasonable prospect of success. I don't think it has treated Mr M unfairly by doing so.

Mr M has made many arguments here, many of which don't sufficiently take into account what Santander's obligations are here. It considered Mr M's arguments that the transaction wasn't authorised and disagreed. And I can see it raised a chargeback and pursued it fairly.

Mr M says Santander has prevented him from making this a criminal matter. I've not seen any persuasive evidence of this. Mr M is and has always been able to take this matter to the Police and I can see evidence he did so. And he can always not accept this decision and pursue the matter through civil processes in the courts. But clearly such avenues of action would be against the merchant in this case, and not Santander.

Mr M has pointed to various rules and regulations about how this scooter was sold. However these are in relation to Mr M and the merchant. As I've described the obligation on Santander is to consider the matter fairly through the chargeback process and to consider the evidence it was provided with at the time. And I'm satisfied it did.

Mr M has made a multitude of arguments about this scooter, and I've considered them all. However Mr M hasn't shown that Santander have led to this loss or treated him unfairly in its consideration and management of the chargeback process here. And I remind Mr M that is the test here and not whether Mr M has lost out.

I think that Mr M hasn't lost out here due to Santander because I think a chargeback would have been successfully defended by the Merchant had it gone to the end of the process based on the evidence available during the process. So I don't think Santander treated Mr M unfairly by deciding not to continue with the chargeback. So I don't think I can fairly require Santander to refund Mr M. So this complaint is unsuccessful.

My final decision

For the reasons set out above, I do not uphold the complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 25 December 2023.

Rod Glyn-Thomas
Ombudsman