

The complaint

Mr D complains that Santander UK Plc has closed his account and registered a fraud marker on national databases.

What happened

Santander received a report that a payment into Mr D's account for £300 on 19 August 2019 was fraudulent. It contacted Mr D and asked him to show he was entitled to the money. It says that as he wasn't able to, it closed his account and registered fraud markers at CIFAS and SIRA which are national fraud databases. It paid him £30 compensation as there had been a delay in giving him the remaining funds in his account.

Our investigator didn't recommend that the complaint be upheld. He said that attempts had been made to take out the £300 from Mr D's account as soon as it had been received at 14:42 that day. Those attempts led to his account being blocked. And Mr D confirmed in a telephone call at 15:09 that he had been making the payments. All of the money had been withdrawn and spent by 16:50. And there had been multiple log-ins to his account with online banking during the day.

On 29 August 2019 Santander received the fraud report. And the person who sent the money had reported that the goods advertised on social media and paid for hadn't been received. When Mr D first spoke to Santander he said that his friend had owed him the money. In another call he said that a friend had arranged for someone else to pay the money into this account and he had withdrawn it for him. Santander had asked him to show that the funds were legitimately his, but he didn't provide any evidence. Mr D had said when he contacted this service that he'd given his card and PIN to someone else who had offered to pay him to use the account. And he wanted Santander to give him another chance to have an account.

Our investigator noted the different explanations and said that there is evidence Mr D was involved with the withdrawals. Mr D was aware the money was being paid in. And he reasonably knew his account wasn't being used for legitimate purposes.

Mr D didn't agree. He provided some social media exchanges he says were with the person who sent this money and it seems a separate payment for £20 using an online payment service. That person charged back the £20 and the payment service found in that person's favour. Mr D now seemed to say that he was selling the phone on social media himself, but he hasn't been totally clear about that.

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 need to consider whether the report to CIFAS was made fairly. On this point, Santander needs to have more than a suspicion or concern. It has to show it had reasonable grounds to

believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

Mr D has given a number of varying explanations of what happened:

- He first told Santander that a friend owed him this money. He gave the name of that friend and wouldn't say why he was owed money as this was 'something personal'.
- He then told Santander that he had allowed his friend to pay money into his account and then withdraw it.
- He told Santander that he had made all the withdrawals too.
- When he referred his complaint to this service during a call when his representative was present he said that he had allowed his account to be used by someone else and he had given his card and PIN to that person and been paid for it.
- Most recently he seems to say that he had received both an online payment service credit of £20 and the £300 payment from the purchaser of the phone. Mr D now seems to indicate he was a lot closer to the sale and that it's the sender who acted fraudulently.

I think Mr D will understand that as he's given such different explanations it's difficult to rely on what he's said. If he was reluctant to give the full story initially the question is why. That in itself indicates to me that this maybe wasn't a legitimate payment and likely that he thought he had done something wrong. I appreciate his relatively young age and have taken that into account in thinking about his actions. There's no suggestion he's been intimidated into acting for another person. And so, I consider he fairly remains responsible for what happened on his account under any of the above explanations.

His account that the sender of the payment received a phone and has made a false claim is only supported by what he says and some social media messages and the chargeback for the £20 payment. The social media messages are difficult to verify and interpret and there is nothing specific to tie them to the £300 payment and show who sold a phone. There's nothing more to show that he or a friend had a phone to sell or of where this came from. Or that he or that friend sold and dispatched this, and it was delivered. And that for example is something Mr D himself says that an online payment service didn't accept regarding the £20 payment charged back. If a friend of Mr D was involved as he has said then that person hasn't come forward to help him confirm the explanation. I also take into account that this money was taken out as quickly as possible from his account and the reason for that is not clear. If Mr D as he said allowed someone else to use his account he hasn't always been open about that and I think would reasonably know this wasn't for legitimate purposes too.

On balance I find that Mr D hasn't given a consistent and credible account of what happened. He hasn't demonstrated for me that this money was legitimately in his account. Or that he has acted unwittingly in what happened in any of his explanations. So, I find it most likely that he was involved in the use of his account for fraudulent purposes.

Santander says that it applied the markers because Mr D received fraudulent funds into his account. So, I've looked at whether Santander was fair to apply them, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Santander needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mr D's account of events and the evidence Santander has provided, I'm satisfied that Santander had sufficient evidence for the markers to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr D received fraudulent funds into his account and didn't report this to Santander at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Santander had grounds to believe that Mr D had used fraudulently obtained funds based on the evidence it had.

So, I'm afraid I think there were grounds for it to close his account and apply the markers and I won't be asking it to do anything more. I appreciate Mr D will be very disappointed by the outcome.

My final decision

My decision is that 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 4 December 2020.

Michael Crewe
Ombudsman