

## **The complaint**

Miss C complained because Santander UK Plc closed her account and registered a fraud marker against her name.

## **What happened**

On 26 November 2018, Miss C paid a cheque for £37,287.12 into her account, at a Santander branch. The cheque had the payer's name printed on the top of the cheque, and this was an educational establishment several hundred miles from Miss C's address. On 28 November, Santander was contacted by the bank on which the cheque had been drawn. That bank told Santander the cheque had been fraudulent.

Santander put a temporary block on Miss C's account. But by then, Miss C had already made three transfers out of the account: one to an account elsewhere in her own name for £9,000, and two other transfers to another person totalling £10,000.

Santander wrote to Miss C the same day, asking her if she recognised a cheque for £37,287.12 paid into her account, and asking her to get in touch.

Miss C told Santander it came from an inheritance but she couldn't provide proof because she wasn't talking to the family members who'd written the cheque. Santander investigated, and on 7 December it wrote to Miss C saying that it had decided it would no longer provide banking facilities to her.

Miss C rang Santander, and said that her ex-partner had the details of her bank accounts. She said he wouldn't give her cards back until she'd agreed to make the transfers. Santander asked a number of questions, including how her ex-partner had obtained the cheque, how he'd obtained her card, and why Miss C hadn't asked Santander to reissue her card and security details. Miss C didn't know the answers, but said she'd been afraid of him. Santander told Miss C that in order to appeal, it would need proof she'd reported this to the police. Miss C told the bank she'd reported it, but hadn't been given a crime reference number. Santander refused to change its original decision about the account closure and the fraud marker.

Miss C complained. She said Santander hadn't taken into account her circumstances. She said she'd previously been signed off work with depression and had medication which affected her judgment. Miss C said that she'd previously been the victim of domestic violence from an earlier partner. She told Santander she hadn't been party to the fraud and wanted the marker removed.

In its final response letter, Santander said it had followed the correct process in closing Miss C's account and recording the CIFAS marker. It said it could review it again if Miss C provided evidence of a successful police prosecution, though it wouldn't guarantee to change the decision.

Miss C wasn't satisfied and complained to this service.

The information Miss C gave to our investigator was complex. In summary, she said the person from whom she'd suffered domestic abuse wasn't the person involved with the cheque, but had been a previous partner. She said she had quite a casual relationship with the person involved with the cheque. She thought she'd dropped her purse, containing the card, in the ex-partner's car, but she hadn't written down her PIN. Miss C told the investigator that her ex-partner had phoned up telling her to transfer money to account numbers he'd give her. She said she agreed because she could hear people shouting in the background that they wanted the money. Miss C also said that after that, her ex-partner had asked her to go to a city several hundred miles away to take money out of a foreign exchange place. Miss C also said her ex-partner and his associates had driven her into town to take out the rest of the money, but by then the account had been blocked.

Our investigator didn't uphold Miss C's complaint. She noted inconsistencies in what Miss C had said. She considered the circumstances, including the fact that Miss C had suffered domestic violence from a previous partner, and the fact she was off work sick. But the investigator pointed out that Miss C had said she'd transferred the money as her ex-partner had told her to. And she'd benefited from the transactions. So the investigator considered that Santander had followed the correct procedures when closing Miss C's account and recording the fraud marker against her name.

Miss C wasn't satisfied. She said she shouldn't be penalised because of the activities of people she had no involvement with. Miss C said she hadn't benefitted in any way, and she didn't accept that she should be prevented from getting on with her life because of the activities of others. And if the CIFAS marker had to stay, she asked that it should only be held with Santander not more widely, because she didn't want to use Santander any more anyway.

### **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.

#### *Closing Miss C's account*

Banks are entitled to close a customer's account and refuse to provide banking services. Santander's terms and conditions also set out that it can close accounts with reduced, or no, notice in certain circumstances. These circumstances include acting in any way to give rise to reasonable suspicion of fraud or other criminal activities.

Here, Santander was notified by another bank that the cheque paid into Miss C's account was fraudulent. It put a temporary block on the account and asked Miss C to get in touch about the cheque. I consider this was fair, because it gave Miss C an opportunity to come up with an explanation. But Miss C didn't provide information which reassured Santander. She said it had been an inheritance, but she couldn't provide evidence of this because she wasn't on speaking terms with the people who'd given her the cheque. This doesn't add up when the account name on the cheque wasn't, say, a solicitor's or executor's account, but an educational establishment in a different part of the country. So I find that it was fair and reasonable for Santander to have taken the decision to close Miss C's account.

#### *CIFAS markers – how they work*

CIFAS is a fraud prevention agency. It maintains a large database, in order to protect financial organisations and their customers against fraud. Member organisations have a responsibility to record a marker against a customer's name when they have reasonable grounds to believe that a fraud or relevant conduct has been committed or attempted. The

evidence the organisation has must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police or a relevant regulatory body.

So I've gone on to consider whether Santander had sufficient grounds to record a marker against Miss C.

### *CIFAS marker against Miss C*

First, I'm sorry to hear that Miss C suffered domestic violence from a previous partner, and that she'd previously been signed off work with depression. But I have to focus on the circumstances of what happened, and in particular whether or not Santander was unfair when it recorded a fraud marker against Miss C's name. Miss C told us that the ex-partner from whom she suffered domestic violence, wasn't the same person involved with the fraudulent cheque. That was a different ex-partner. Miss C told us the ex-partner involved with the fraudulent cheque hadn't abused her in any way. So, although I sympathise with Miss C's previous experience, it doesn't affect my consideration of the circumstances around the fraud.

The details which Miss C has provided to Santander and to this service have varied over time. To give one example, she first said the cheque had been an inheritance, but she couldn't provide proof because she wasn't on speaking terms with the people who'd given her the cheque; but later said her ex-partner had paid it into her account without her knowing anything about it.

Miss C's versions of what happened have also been very elaborate and complex. To give a few examples, they included being told to travel several hundred miles away to take out money as foreign exchange; being told to transfer to account details given over the phone with people shouting in the background they must have the money; and her ex-partner's associates phoning her saying they knew where she lived. But Miss C didn't initially report any of these to Santander or the police, and they've varied over time.

I can't say for sure which of these may or may not have happened, but that's not what's important here. My job is to determine whether or not Santander acted fairly and reasonably when it recorded the fraud marker against Miss C's name. To establish that, I've looked at the known facts.

The £37,287.12 cheque was fraudulent. That's not in dispute. Within a very short time, and before the sender bank had been able to notify Santander of the fraud, £19,000 had been withdrawn. Of this, £9,000 had been transferred to an account of Miss C's with another bank. There were also two bank transfers to other accounts. It's common practice for fraudsters to withdraw fraudulent funds straightaway, before the fraud can be spotted and withdrawals blocked.

The transfers were completed using Miss C's security details. She hadn't notified Santander that she had lost her card, or someone else had it; and she also hasn't said she wrote down or in any other way compromised her PIN or online security details.

And finally, Miss C's bank statements with the other bank show that, as well as the £9,000 which credited her account from the fraudulent funds, she also received two payments from the person to whom she'd paid the other £10,000. One of these was for £1,500 and another for £3,000. Both were received by Miss C's other bank account on the same day as Miss C had carried out the Santander transfers to that person. Miss C wasn't able to explain this when our investigator asked her about it. So I consider it's likely that Miss C benefitted from the fraud by at least £13,500.

Taking all these factors into consideration, I consider that Santander met the CIFAS criteria for recording a marker against Miss C's name. I don't require Santander to remove the marker.

Finally, Miss C has asked that if the CIFAS marker has to stay, it should only be held with Santander and not more widely. But this isn't how CIFAS markers work. As the CIFAS website explains, the organisation exists to prevent fraud losses. This is done through sharing data. All member organisations, including Santander, are required to report information as part of this activity to prevent fraud, which is entered on the shared database. So it's never an option for a CIFAS marker to be recorded only on the records of one organisation alone.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 30 November 2020.

Belinda Knight  
**Ombudsman**