

The complaint

Miss A complains that Santander UK Plc closed her account and added a marker at CIFAS, the national fraud database.

What happened

Miss A says that she was contacted by Santander in April 2019 about money she received into her account. She says that this was the repayment of a loan. Her account was closed, and she says she's been unable to open another one as a result of the marker that was added.

Santander said it hadn't made a mistake. This account had been opened the month before and it said that it could withdraw an account at any time. It said that it had asked Miss A for documentary evidence to support the funds being paid in. And its investigation team had carried out a detailed review. The CIFAS marker had been added in line with its processes.

Our investigator didn't recommend that the complaint be upheld. She said that Santander had acted within its terms and conditions when it told Miss A that it would be closing her account. Miss A had provided some information about the money she received. Our investigator said that Miss A couldn't provide the full name of the person she says she lent the money to and her testimony hadn't been consistent. And she had taken into account the information Santander had provided.

Miss A didn't agree and wanted her complaint to be reviewed. Given the time that has passed she didn't have any other information to provide. This has affected her mental health and her ability to operate an account as a student to receive finance and she has had a difficult time.

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.

Miss A says that the person who arranged to send her the money had borrowed £250 a year earlier when they were at school and he had then left. She was later in contact with him and he reminded her about this loan and said he would pay her back. She received payments into her account shown as £90 (on 4 April 2019), and then £90, £90 and £15 (on 5 April 2019) – so a total of £285. She provided Santander at the time with an email dated 11 April 2019 she says came from the person who sent her the money to explain what happened, a screen print she says is of that person's account showing two of the payments of £90 and the one of £15 and an exchange she says was with him on social media before and after the payments. One of the payments of £90 came from a different account and the explanation in

the email is that his friend sent this as Miss A needed this urgently. And that he used a different name for Miss A as the recipient as this is one she used to be known by at school. In addition, he told Miss A that as there were restrictions on his account he had sent the money in these smaller amounts and that she should repay him the difference. In more recent correspondence with the investigator Miss A says that the person who she was in contact with has admitted fraudulently taking money. And she wanted to know if the person making the claim of fraud who she says has been repaid withdrew things it would make a difference. There is no further information to show that this happened.

I can see that the email and the screenshot of the bank account I've referred to above were available to Santander at the time of its investigation. It had asked Miss A to get the person sending the money to provide an original statement. The social media exchange provided isn't dated and by its nature can't be verified.

Santander froze her account while it was investigating but by then Miss A had paid away a proportion of this money.

I'm satisfied based on the evidence I've seen from Santander that this money sent to Miss A was obtained fraudulently as part of a scam. The issue I need to decide on is whether Miss A was an unwitting recipient of this money or reasonably knew that the funds weren't legitimately hers. I'm afraid that while Miss A's explanation isn't impossible I don't find it plausible. The details about the previous loan are vague and come from someone who has acted fraudulently. There was no good explanation for her receiving more than she says she was owed and also from another third party. Santander considered her explanation and all the information it had about her at the time, so she had an opportunity then to provide any further evidence. So, I don't find it most likely that she was an unwitting participant and ought not reasonably to have realised these funds weren't legitimate before accessing them.

Santander says that it applied the CIFAS marker because Miss A received fraudulent funds into her account. So, I've looked at whether Santander was fair to apply the marker, 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 Miss A's account of events and the evidence Santander has provided, I'm satisfied that Santander had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Miss A received fraudulent funds into her account
- She authorised the withdrawal of some of this money and so was in control of who had the benefit of this money.
- Santander had grounds to believe that Miss A had knowingly used fraudulently obtained funds based on all the evidence it had.

Santander was entitled to close her account under the terms and conditions, and I don't find it made a mistake in applying the marker at CIFAS. I won't be asking it to take any action. I appreciate how disappointed Miss A will be 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 Miss A to accept or reject my decision before 16 August 2021.

Michael Crewe
Ombudsman