

The complaint

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

What happened

Miss D says she agreed to receive money from the Uncle of a friend who she knew well for his educational fees and then send them on to him. She maintains that she didn't know that the payments of £400 and £150 she received on 28 October 2019 were fraudulently obtained. And when Santander told her about this she obtained a copy of the statement of the person who sent the money as requested. She doesn't think that the marker was added fairly.

Santander says it received a report on 8 November 2019 that this money had been fraudulently obtained. It contacted Miss D and asked her to show that she was entitled to it. As she said that the money was never intended for her she had breached the terms and conditions of the account. And the statement didn't provide proof of her entitlement as the money was obtained fraudulently in the first place. Miss D had quickly sent the payments on. So, it said it hadn't made any mistake in closing her account and adding the marker. It had paid her £30 for providing a poor service when it reviewed her documents in a branch.

Our investigator didn't recommend that the complaint be upheld. He said he had seen a number of social media messages said to be between Miss D and the person she had sent the money onto. He said that:

- Miss D hadn't asked why the fees couldn't have been paid directly and said she was just helping out a friend. She had tried to send the payment on to that person on 28 October 2019 but had sent it in two parts the following day leaving £12 for herself.
- The social media messages state that the friend's Uncle has first sent £400. And she asked that no more was sent. They don't explain the agreement before then for Miss D to receive the money and provide her bank details.
- He thought that her suspicions ought to have been raised and that there were multiple other routes for her friend to receive the money. She did benefit to a small extent although had turned down a share of the money.

Miss D didn't agree. She said that the screenshots did deal with why the money was sent. She attached these documents. She said that she believed her friend's Uncle wasn't able to use an app to send this money abroad. Miss D accepted that she had been naïve and should have been cautious, but she insisted she had no knowledge that this money was fraudulently obtained.

my provisional decision

I issued a provisional decision about this complaint on 26 November 2020. I set out below what I said.

I needed 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.

Information from social media is difficult to verify. I looked at all the screenshots Miss D has provided. I wasn't clear if she ever provided these to Santander although they did seem to be referred to in notes of a conversation it had with her. I agreed with our investigator that as these start on 28 October 2019 they don't cover any prior arrangements made. But I did take a different view of them when considered overall for the following reasons:

- I was satisfied that at least at first Miss D did think that these were funds for her friend from his Uncle. To think otherwise I'd need to form the view that the extensive chain of messages was fabricated from the start to provide 'cover' for Miss D when receiving the funds. I thought she was strongly influenced by the person she was in contact with to act in this way.
- I viewed the development of the online conversation as a natural one with Miss D being concerned to receive a further £150. And her making an attempt to send all the money on that evening and declining to take any share for herself. She did split the funds to enable her to send the money, but I didn't consider the £12 odd of this that remained in her account that relevant here.
- Her concern at the contact from Santander about this money is shown. There is a clear and escalating path of her requesting a copy of the statement a number of times. And then saying that this didn't show the payment was for her on that statement. She obtained the details of the person who sent the money and passed this on to Santander. If she knew this money had been fraudulently obtained I'd have expected the nature of those exchanges to be different with her.
- The friend she is speaking to offers to cover any money she has lost but she says that this is all about her account being restricted.
- I considered the nature of the messages on her social media account to be broadly consistent with her explanation, the movements on her account and the contact she had with Santander.

I agreed that Miss D ought to have been more suspicious about how her account was being used. She effectively was a 'money mule' and gave out her details without too much thought about this. And suspicion then falls on her as a result of the money she received and quickly paid on. But in what I thought is a finely balanced case my provisional view was that I wasn't persuaded for the reasons I've given that she was a witting participant in the fraud.

Given this I didn't consider that the high bar for reporting a fraud marker has been met. But I did think that Santander had sufficient grounds to decide that it no longer wanted to offer her an account. In the circumstances I wouldn't be requiring Santander to do anything more than remove any externally reported fraud markers.

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.

Santander said it accepted my provisional decision and would arrange for the CIFAS marker to be removed. Miss D didn't make any comments.

As a result, I see no reason to depart from the conclusions of my provisional decision.

My final decision

My decision is that I uphold this complaint and I require Santander UK Plc to remove the CIFAS marker and any other externally reported fraud markers relating to these payments.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 15 February 2021.

Michael Crewe
Ombudsman