

## **The complaint**

E complains Santander UK Plc closed its business account and recorded a marker with CIFAs. It asks for the marker to be removed and compensation for its losses.

## **What happened**

Mr O is the director of E, a limited company, and brings this complaint on its behalf. E held a business account with Santander. In 2019, Santander was contacted by E's merchant payment services provider about a payment made to E's account. Mr O made the payment using a payment terminal.

Santander reviewed the payment and blocked E's account. It asked Mr O questions about the payment and several others, and Mr O provided it with some information. Santander decided to close E's account and recorded a marker on the National Fraud Database operated by CIFAs, an established fraud prevention agency.

Mr O complained to Santander, but Santander rejected the complaint. It said it closed E's account in line with the account terms and was able to record the CIFAs marker. Unhappy with this response, Mr O brought E's complaint to our service.

An investigator considered E's complaint and decided Santander had acted fairly. They found:

- Santander was able to block E's account. It had important legal and regulatory obligations to fulfil and could block the account while it carried out a review. It had been contacted by the merchant payment services provider about an unauthorised payment, so it was understandable why it had a concern and reviewed the account.
- Santander had the discretion to close E's account. It applied the correct account terms, so it hadn't done anything wrong.
- Santander was able to record the marker with CIFAs. Looking at all the information, there wasn't enough to tell it to remove the marker.

Mr O disagreed with the investigator. He said he was fine about Santander closing the account, but the CIFAs marker was unfair. He had not committed fraud and reiterated the payment problem was caused by the merchant payment services provider experiencing a system issue.

Mr O asked for a final decision from an ombudsman, so the complaint was 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've decided not to uphold Mr O's complaint. I'll explain why.

- Mr O said he is fine about E's account closing. So, I've not considered this point any further, other than to say I'm satisfied Santander could close the account and it reasonably applied the correct account terms.
- The investigator was right to say Santander has important legal and regulatory obligations it must account for. After E's merchant payment services provider contacted it about an unauthorised payment, it was understandable why it reviewed and blocked the account.
- Santander needed to meet the evidential threshold CIFAS requires of its members to record the marker. But Santander isn't required to prove beyond reasonable doubt that Mr O was involved in a fraud. Indeed, a criminal investigation and prosecution is a matter for the police and crown prosecution service to conduct.
- Nonetheless, reporting a CIFAS marker requires Santander to have enough robust information to confidently report the conduct of Mr O to the police, although it doesn't need to report him. This means it needed to have more than a mere suspicion to register a marker.
- Mr O disputes being implicated or having knowledge of anything untoward in relation to the payment. And it's not for me to make a finding that he is or isn't guilty of a crime; indeed, it's possible he is innocent of any wrongdoing. Instead, what I must consider is whether the evidential threshold CIFAS requires was met. And I find there is enough information for Santander to have recorded the marker.
- Mr O said he encountered difficulties making the payment using the payment terminal. He says an authorisation code was generated by the terminal, but the payment wouldn't go through. He recalls speaking to the merchant payment services provider who told him there were system problems. He made the payment the next day using the same code. But, I'm not persuaded Mr O's version of events corresponds to the information I have.
- The merchant payment services provider has no record of him ringing the day before the payment. Instead it has a record of him ringing several days later. Neither does the payment terminal provider have a record of him ringing until the day after the payment was made. So, I don't find Mr O did make the phone calls he says he did.
- The information Mr O provided about the payment attempts he made the day before the payment does not establish how he got the payment authorisation code. The code isn't on any of the cancelled payment receipts. So, I'm not satisfied he got the code from the payment terminal the day before the payment.
- The merchant services provider has no record of system issues the day the payment was made or the day before, when Mr O says he encountered a problem. I've no reason to doubt the accuracy of the provider's records. They reliably show the payment was forced through using a code neither card issuer or merchant services provider recognised.
- Mr O first told the merchant payment services provider his customer gave him the code. He later said the terminal generated the code. He said he misunderstood what

the code was and thought it meant the customer's card details. But I don't find his explanation persuasive. I doubt it would have taken as long as it did to realise an authorisation code was something different. And it's quite clear an authorisation code is different to the card details of a customer.

E is now experiencing severe difficulties continuing to trade. And, I don't doubt a CIFAs marker may affect the decisions other account providers make in regard to E. But I don't find Santander acted unreasonably recording the marker. So, I am not going to direct its removal.

### **My final decision**

For the reasons I have given, I've decided not to uphold E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision on E's behalf before 16 July 2021.

Liam King  
**Ombudsman**