

## The complaint

Mr A complained because Santander UK Plc closed his account and recorded a CIFAS fraud marker against his name.

## What happened

On 3 December 2018, £450 credited Mr A's Santander basic banking account.

Mr A carried out a balance enquiry on 5 December 2018, and made a £50 payment the next day. During the next few days, he checked his balance at a cash machine and made further withdrawals, spending all the money.

In June 2019, Santander contacted Mr A about the £450 credit. Mr A told Santander he had no knowledge of where the credit had come from, or why. He said he hadn't known the credit was in his account, which was why he'd spent the money.

Santander decided to withdraw banking facilities from Mr A. It closed his account on 21 June and told Mr A he could collect his £1.44 balance from a branch within the next 30 days if he took suitable photo identification.

Santander also recorded a fraud marker on the CIFAS anti-fraud database.

In September 2019, Mr A complained to Santander. He said he'd had difficulties being accepted for accounts elsewhere. In its final response letter, Santander refused to change its decision. It also said that Santander had no jurisdiction over other financial organisations' decisions, and Mr A would have to contact the organisations which had turned him down.

Mr A complained to this service. He said he'd told Santander he didn't know anything about the credit, but it had closed his account, and he had no job or account as a result.

Our investigator didn't uphold Mr A's complaint. He explained that Santander had recorded the CIFAS marker against Mr A because fraudulent credits had been made into his account, which he'd spent. Having looked at Mr A's actions after the credit, he believed Mr A had been aware of the credit into his account – and that he knowingly spent it. So the investigator considered Santander had acted correctly when it had closed Mr A's account and recorded a CIFAS fraud marker against his name.

Mr A didn't agree and asked for an ombudsman decision. He said Santander had assumed he knew about the £450 credit because he'd made balance enquiries at cash machines. But Mr A said that when checking a balance at a cash machine, it didn't give much information, for example about the origin of the funds. Mr A also said that the time when it happened would have been very close to when he'd been paid by the firm he'd then been working for. Mr A said that he'd planned to get a mortgage and open an account for his son, and wouldn't have jeopardised that for the amount of money which came into his account. He said his mistake was not having set up online banking with Santander.

## **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 looked at the transactions after the fraudulent £450 funds arrived in Mr A's account on 3 December 2018. Starting on 5 December, there were multiple balance enquiries and then withdrawals spending all the money, and Mr A told Santander that no-one else had had access to his card or PIN. He did report his card missing about a month later, but that was in relation to two further transactions, which don't form part of this complaint.

When Santander asked Mr A about the money in June 2019, he said he didn't know anything about the incoming fraudulent payment. But he'd made multiple balance enquiries – which leads me to think he was expecting a credit. When it arrived, he then spent the money within a week of receiving it. He hadn't contacted Santander to ask why there was more money in his account than he'd expected.

When Mr A complained to this service, he said he'd checked his account because he'd been expecting his pay. But I've looked at Mr A's statements both before and after the £450 credit, and there's no sign of any pay coming into his account. And I've also borne in mind that when Santander contacted Mr A in June 2019 to ask him about the fraudulent credit, Mr A didn't mention that he'd been expecting his pay.

After the investigator's view, Mr A said that his mistake was not having online banking. But I don't consider it makes any difference whether Mr A checked his balance at a cash machine, or online. Either would have shown there was significantly more money in his account than there had been before. The balance of Mr A's account was generally low, so an extra £450 would have been noticeable. I've looked at the pattern of Mr A's account from when he'd opened it, and the balance had generally been low, with occasional irregular credits from a number of different sources. So I think it's more likely than not that Mr A checked his balance because he was expecting the credit – and was aware when it came. And he didn't tell Santander at the time that he'd had an unexpected credit, but spent the money.

I've looked at what Santander did in response to these events.

Santander's terms and conditions, sections 17.2 and 17.3, state that if a customer is in significant breach of the terms and conditions, it can close the account with immediate notice. One condition is that the account holder must not "*act in any way to give rise to reasonable suspicion of fraud or other criminal activities.*" Here, I accept that Santander considered Mr A had acted fraudulently and was entitled to close his account.

Santander also recorded a CIFAS fraud marker against Mr A's name. CIFAS is a fraud prevention membership organisation. Members, such as Santander, register markers against individuals. There's a high standard of proof required, and set standards of proof, before a marker can be recorded. These standards include a requirement that there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted. And that evidence must be clear, relevant and rigorous such that the member could confidently report the conduct to the police.

I've looked at the evidence Santander has provided to this service. Having done so, I consider Santander carried out sufficient checks to satisfy the requirements for a CIFAS marker. So I find that it was recorded correctly and I do not require Santander to remove it.

## **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 Mr A to accept or reject my decision before 28 September 2021.

Belinda Knight  
**Ombudsman**