

The complaint

Mr R complains that Santander UK Plc closed his bank account and placed a CIFAS marker against his name. CIFAS is the UK's fraud alert service.

What happened

Mr R had an account with Santander. He also had access to a business account, for a company I will refer to as V.

On 1 July 2019, £2,500 was paid into V's account. Following this Mr R made several payments from V's account to accounts he held with another bank.

On 10 July 2019, Santander were contacted by the bank from which the £2,500 had been sent. They said that their customer, Mr N, had been the victim of fraud, and that his account had been compromised. The bank asked Santander to return the money. Santander placed blocks on Mr R's account whilst it investigated what had happened.

Mr R said he was entitled to the money paid into V's account. And explained that it was payment for consulting services he'd provided to Mr N. He provided an invoice and messages he'd received from the person who'd arranged the payment to support what he'd said about the money. Santander didn't think the information was enough to show Mr R was entitled to the money. It suggested to Mr R that he could contact Mr N to retract the fraud report he'd made to his bank. But Mr R refused.

Following this, Santander decided to close Mr R's account immediately. It also placed a CIFAS marker against his name. Mr R complained to Santander and said that he'd been unable to open a bank account due to the marker and as a result his business had suffered. Santander said it hadn't done anything wrong and declined to remove the marker.

Unhappy with this response, Mr R brought his complaint to our service. One of our investigator's said however that this service didn't have any power to look at Mr R's complaint about the marker. The investigator said Santander had acted fairly in closing Mr R's account. So, she didn't uphold the complaint.

Mr R disagreed. He wants the marker removed and maintained he hadn't done anything wrong. As no agreement could be reached, the matter has come 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'll deal first with Santander's decision to review Mr R's account. As the investigator has already explained, Santander has important legal and regulatory obligations it must meet when providing accounts to customers. These obligations are ongoing, so do not only pertain to when an account is opened. To comply with its obligations Santander may need to review an account and/or restrict its customer's access to accounts and funds held within

them. Santander is also entitled to ask a customer for more information about how they use their account, including payments which are made into and out of an account.

I've no doubt that not having a functioning bank account or access to money in his account made things quite difficult for Mr R. So, I can understand why he found this experience with Santander stressful and inconvenient. But as I've explained, banks have a legal obligation to comply with various laws and regulations. Having looked at all the evidence, I'm satisfied that Santander was complying with its obligations when it blocked Mr R's account. The bank has explained that this was its standard procedure, and I accept that it was. That's in line with what most banks would do in the same situation, and it enabled Santander to consider how best to react to the report it had received from the other bank about the £2,500. So, whilst I accept this caused Mr R inconvenience, I can't say Santander treated him unfairly when it blocked his account.

I then turn to the bank's decision to close Mr R's account. It's generally for banks to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a very good reason to do so, this service won't usually say that a bank must keep a customer or require it to compensate a customer who has had their account closed.

Banks should however, give reasonable notice before closing an account. Usually, that means 60 days' notice, but it can be less – depending on the circumstances. In this case, Santander closed Mr R's account immediately. For Santander to act fairly here they needed to meet the criteria to apply their terms for immediate closure – and having looked at these terms and all the evidence, I'm satisfied that the bank has applied the terms fairly. And it was entitled to close the account as it's already done. I note too that Mr R had access to at least one other bank account at the time, so the immediate impact on him would have been reduced.

CIFAS marker

As the investigator explained, our powers are set out in that part of the Financial Conduct Authority's Handbook that deals with dispute resolution – known as DISP. And DISP sets out the rules about which complaints we can look at. The rules say we can only consider complaints referred to us by (or on behalf) of eligible complainants.

DISP 2.7.3.(R) lists those people that are eligible. It says in summary, that the complainant must be one of the following: a consumer, a micro-enterprise, a charity, a trustee of a trust, a CBTL (consumer buy-to let), a small business or a guarantor. The two categories that are relevant to this complaint are micro-enterprise and consumer.

Mr R as an individual isn't a micro-enterprise, charity, and so on. And in the circumstances of this case Mr R doesn't meet the definition of 'consumer' either. As the investigator noted, Mr R's complaint arose because fraudulent funds were paid into V's account, not his account. Mr R has said the payment was for consultancy work he'd done. And that he was assisting V. This means, in bringing the complaint, Mr R wasn't acting as a *consumer*; that is, he wasn't acting for purposes outside his business, trade or profession. The complaint arose because of the activity on V's account, and the marker has been placed against Mr R's name specifically because of his actions while acting within his trade, business or profession and his connection with the company.

In addition, in order to be an *eligible complainant* under the DISP rules, Mr R's complaint must arise from one or more of the relationships with Santander set out in DISP 2.7.6. (R) Most, although not all, of the relationships listed involve a direct relationship between the person bringing the complaint and the financial business. And most complaints about banks

are brought by their customers as a result of something the bank did or didn't do to them as customers. But Mr R's complaint doesn't arise from any such relationship he had with Santander; he wasn't the bank's customer; V was. For these reasons, I've concluded that Mr R's complaint doesn't arise from one of the necessary relationships between him and Santander set out in our rules. It follows that he isn't an *eligible complainant*.

I stress that, in reaching this conclusion, I haven't considered whether or not Santander was justified in placing the marker against Mr R's name. I make no comment on that. My decision is concerned only with the issue of the service's powers to look at his complaint. It could be Mr R has a claim against Santander; it's just that I don't have the power to consider this aspect of Mr R's complaint.

My final decision

For the reasons I've explained I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 8 October 2021.

Sharon Kerrison
Ombudsman