

The complaint

Miss Y complains that Santander UK Plc registered a marker about her at CIFAS, the national fraud database.

What happened

Santander said that Miss Y received £5,000 into her account on 12 July 2019. It said it identified that this money was fraudulently obtained. And it asked Miss Y to show that she was entitled to it. Santander said it wasn't satisfied with her explanation and so it closed her account and didn't let her have the money. It said it had grounds to add a marker at CIFAS.

Our investigator didn't recommend that the complaint be upheld. She said that the bar for adding the marker was a high one. Here Miss Y had been asked by Santander to explain why the money was in her account. She first said that this was expected from a friend that owed her money, and then that it was from her brother repaying part of a loan. She had also mentioned it was a wedding gift. She told Santander she didn't know how her brother obtained the funds and she later said that he had earned it selling watches. And that she wasn't expecting it. Miss Y had told our investigator that she provided contradictory information because she had recently lost her father and got married and wasn't thinking straight. And that her brother had said of the money just to 'keep it'. Our investigator thought that the grounds for the marker had been met and Miss Y hadn't been able to give a reliable explanation now of why she had his money.

Miss Y didn't agree and said that she had said the money was from a friend rather than her brother as her natural instinct was to protect him. She doesn't see why her behaviour was fraudulent when all she did was receive money into her account. She didn't know it was fraudulent. This has affected her whole life and her ability to get an account elsewhere or even to sign up for a broadband contract. She asked that she be shown empathy.

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 Y was given the opportunity by Santander to provide evidence that she was entitled to this money. So even if she had initially made a poor decision not to give a true account of the source she then had the chance to put forward an explanation with evidence. I've listened to a call she had with Santander in which she persisted with her explanation that this was money owed to her although she was unable to identify when payments had been made from her to her brother other than in April of 2019. I agree with our investigator that she hasn't given a reliable explanation of how she came by this money. And her related attempts to explain this lead me to conclude on balance that she reasonably knew that this money

wasn't hers or obtained legitimately. She is responsible for what happened in her account and she didn't tell Santander that this was money she wasn't entitled to.

Santander says that it applied the CIFAS marker because Miss Y received fraudulent funds into his 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 Y'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 Y received fraudulent funds into her account and didn't report this to Santander at the time.
- She was in control of who had the benefit of this money.
- Santander had grounds to believe that Miss Y knowingly had fraudulently obtained funds based on the evidence it had.

It closed her account in line with its terms and conditions and I don't have a basis to require it to take any further action. I understand how disappointed Miss Y will be by my conclusions.

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 Y to accept or reject my decision before 10 December 2021.

Michael Crewe
Ombudsman