

The complaint

Miss D complains that Santander UK PLC (Santander) declined her fraud claim and registered a CIFAS marker against her name. She also complains that she received poor customer service during this time.

What happened

Miss D's Santander account was opened in May 2019. She says that fraudsters took £1,880.57 from her account, by way of card payments, cash withdrawals and a bank transfer over a period of 7 weeks from August to September 2019. She also says a cheque for £18,259.38 was paid into her account, without her knowledge.

Santander declined Miss D's claim for reimbursement of the transactions she had disputed because there was no explanation as to how a fraudster could have obtained her PIN, Miss D had logged onto her online banking numerous times during the period in question and it found her testimony inconsistent. It also closed Miss D's account and registered a CIFAS marker against her after the £18,259.38 cheque paid into Miss D's account bounced and was reported as fraudulent.

Miss D brought her complaint to our service, saying the last time she'd used her card and PIN was at the start of August 2019, for a payment of £8 to a retailer, and that she had left her card in her wardrobe. She said she wanted Santander to apologise to her for accusing her of fraud, to reimburse the money she had lost, to make sure this didn't happen again, and to remove any markers from her credit file.

Our investigator didn't uphold Miss D's complaint. She said it was unlikely the transactions had been made by a fraudster, and concluded Miss D had authorised the transactions herself. She said Miss D's testimony had been inconsistent and that there was no explanation as to how a fraudster could have got hold of Miss D's card or her PIN.

She also said that, on balance, it was likely that Miss D had paid the £18,259.38 cheque in herself, or gave someone authority to do so. So she felt Santander had acted reasonably in applying a CIFAS marker and didn't think it would be fair to ask Santander to remove it.

Finally, she felt Santander had done enough by awarding Miss D £60 in respect of the poor service she'd received.

Miss D remained unhappy. She said there was no CCTV evidence catching her in the act, so asked for an ombudsman to review the matter afresh.

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.

In her view, our investigator made a number of important points. She noted Miss D's physical card and PIN had been used, and that Miss D said only *she* knew the PIN, and that

she hadn't written it down anywhere. She also said that her physical card was in her wardrobe, i.e. that it hadn't been stolen by an unknown party.

Our investigator also noted that there were a number of logins to Miss D's online banking while the disputed transactions were ongoing, and that Miss D hadn't reported the transactions to the bank at that time, despite the fact that she would have seen them when she logged into her online account.

And our investigator noted that the pattern of spending didn't match that of a likely fraudster: the transactions were spaced apart over several days and weeks, and there was no attempt to quickly maximise the fraud before being discovered.

With regard to the CIFAS marker, our investigator noted that the cheque for £18,259.38 had been paid in using Miss D's physical card and PIN. Again, our investigator could find no evidence to show how Miss D's card and PIN had been compromised.

She also found that the cheque had been written out to Miss D's full name, and yet only her first initial and surname appeared on the card. So even if a fraudster had got hold of Miss D's card, there was no explanation as to how they could have guessed Miss D's full name.

Finally, our investigator said it wouldn't make sense for a fraudster to pay money into Miss D's account without being able to access those funds subsequently. And she noted Miss D had logged into her online banking several times the day after the cheque had been paid in.

In order to uphold Miss D's complaint, I would need to be persuaded that she didn't authorise the transactions, and that she knew nothing of the inbound cheque.

In response to our investigator's findings, Miss D offered no explanation as to how her card or PIN might have been compromised. She didn't seek to explain how her online banking details could have been compromised, nor did she offer an explanation as to how a fraudster might have obtained her full name in order to pay in the cheque. She simply said she wanted to see hard evidence and asked for CCTV footage showing her withdrawing money or paying in the cheque.

I've thought about everything both Santander and Miss D have said, and I've considered all of the evidence both parties have provided our service with. Having done so, I won't be upholding Miss D's complaint.

In order for the transactions to be made, Miss D's card and PIN had to be used. But there's no evidence to support how anyone could have obtained Miss D's card and PIN, without her authority. Which suggests the transactions were carried out by Miss D, or by someone with her permission.

If CCTV footage were available, it wouldn't help Miss D's case. If it were to show another person carrying out the transactions, that wouldn't demonstrate that person did so without Miss D's authority. And I haven't seen sufficient evidence to persuade me on the balance of probabilities that a third party could have obtained Miss D's card and PIN, without her consent.

With regard to the CIFAS marker, the same rationale applies. The evidence I've seen shows that Miss D's card and PIN were used to pay the cheque in, and that her full name was written on the cheque. And I've seen nothing to persuade me that all of those details could have been obtained by a third party, without Miss D's consent. So I can't reasonably say Santander acted unfairly in registering a CIFAS marker against Miss D.

I agree with our investigator that the pattern doesn't fit the behaviour of a fraudster. There are many small transactions spread over several weeks, whereas a fraudster would ordinarily seek to max out a card before getting caught, or the card being stopped. And it seems unlikely that a fraudster would pay a cheque into Miss D's account, with no way of accessing the funds. And I've seen no compelling evidence to show how the details needed to access those funds could have been compromised.

In summary, the evidence I've seen suggests it's more likely than not that Miss D authorised the transactions she disputes, including the cheque she paid in. She was the only person who knew her PIN and she regularly logged into her online banking, including the day after the cheque was paid in, which suggests she was aware of the activity on her account. Miss D has offered no explanation as to how her PIN, name and card could have been obtained by a fraudster, despite the clear comments our investigator made in her view.

With regard to the service Miss D received, she says she had difficulty obtaining her funds once her account had been closed. I note that Santander offered Miss D £60 to compensate her for the distress and inconvenience this caused, and I'm satisfied Santander have done enough to put matters right for Miss D by offering the payment of £60.

At this point, I would like to acknowledge that Miss D has put forward a large volume of submissions in support of her complaint. I've read these carefully, but I've only commented on them in this decision insofar as I consider them relevant to the outcome of this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 21 December 2021.

Alex Brooke-Smith
Ombudsman