

The complaint

Miss K complains that Santander UK Plc closed her account and registered a marker at CIFAS, the national fraud database.

What happened

Miss K says she was contacted by individuals on social media about receiving money into her account for someone else unable to make large cash withdrawals. She met them and discussed the 'scheme' which she could benefit from. Miss K says she thought it was 'dodgy' but that she was threatened and went along with it. Her account was first used by them in late 2018. She raised this matter with police in August 2019 and said it was resolved. But Santander wouldn't agree to remove the marker.

Santander said that it hadn't made a mistake. Miss K had received £10,000 into her account in November 2018 that had been fraudulently obtained. She had tried to transfer £3,000. She had falsely said that this money was from the sale of a car and the transfer to repay a loan. She only came to report being a victim herself later on and said that this had been a cover story. And Santander said it had spoken to the police and been told that there had been no prosecution or evidence to support her claim. It said it had grounds to close the account and add the marker.

Our investigator didn't recommend that the complaint be upheld. She said that there was a high bar for adding a CIFAS marker. And here Miss K had said she had given the individuals full access to her account. So, they had her card and PIN and could log in to online banking and that they used her account. Our investigator said that a similar pattern of spending had taken place after Miss K had said that her account was taken over which suggested she still had access to it. And there was only one other large transfer into the account which didn't support it being regularly used by others. It was unclear why Miss K would have needed to be involved in attempting the £3,000 transfer.

Miss K said she didn't have her phone which contained evidence about what happened as the police had taken this. But the police had indicated that there wasn't evidence to support her claim. And Miss K hadn't been consistent about what the police had done stating that they had investigated and found she was a victim. But then that no further action was taken as Miss K was no longer being bothered by the individuals. Miss K had stated that what she was being asked to do sounded dodgy. So, she would have been aware that the funds going into her account weren't legitimate and our investigator said she thought Miss K was complicit in what was happening.

Miss K didn't agree and wanted her complaint to be reviewed. She wanted the official crime report from police to be considered.

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.

I've looked closely at the short summary police report Miss K has provided dated August 2019. This states that the earliest date an alleged offence of blackmail was committed was 1 October 2018. And that she had complained about being befriended by individuals at university who had forced her to allow money to be put into her account. And they made threats that if they didn't get their money they would harm her and her family. She had been too scared to report this until then. The outcome had been that this had been filed with no further action.

Miss K told this service that she had provided the police with her phone. And that this had *'the messages on as well as a picture of one of the men who committed the fraud...I also gave them names and information of the people who threatened me such as their whereabouts.'* There were also social media messages of her being threatened and a call and text history.

I can see from the case notes from Santander that it made a number of attempts to contact the police and it states that it then had a *'detailed conversation'* about this case. There was no action from police it stated because there hadn't been evidence to support what Miss K alleged.

I note this and agree with our investigator that there is limited information to support Miss K's account being taken over by others as she says. During the period up to this large credit of £10,000 being received the account appeared broadly to operate as before. And I also agree that she wouldn't have needed to attempt the £3,000 transfer herself if those individuals had free access to her account.

Miss K accepts she knew things weren't right with this 'scheme'. She has no evidence to support that she was coerced into this. And although there could be a number of reasons why police didn't investigate things further, there is a dispute about whether there was any evidence. She's also suggested at times that she was accepted as a victim and things were resolved and that by agreement no further action resulted. I take into account that this was a serious allegation for her to make.

There are two broad versions of events which involve Miss K either in one being complicit and a willing participant in what happened or in the other her not being. I consider Santander investigated what Miss K had to say before deciding to retain the marker. And that Miss K has now had an opportunity to present her side of things to this service too. While her explanation isn't impossible there is nothing to support it beyond her going to the police later on. There are reasons why she may as she says have delayed making a report. But the report itself isn't conclusive and doesn't resolve things as I've said. Having balanced everything, I don't find Miss K's explanation the most likely one for the reasons I've set out.

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

So, I don't have a basis to find Santander acted unfairly by closing her account and adding the CIFAS marker. I know that this will be a great disappointment for Miss K who has explained the effect this is having on her ability to operate accounts elsewhere.

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 K to accept or reject my decision before 28 February 2022.

Michael Crewe
Ombudsman