

The complaint

Mr O complains that Santander UK Plc closed his account and registered a marker at CIFAS, the national fraud database.

What happened

Santander said that it had decided to close Mr O's account. It had received a report of fraud. And that Mr O hadn't provided any evidence to show that he was entitled to the funds involved. It had been obliged to report what happened to CIFAS.

Our adjudicator didn't recommend that the complaint be upheld. He said that there was a high bar for adding a CIFAS marker. Santander had received a report about two payments into Mr O's account on 25 April 2020. The sender had said that there had been a scam. And Santander identified a further payment to Mr O on 29 April 2020 as one fraudulently obtained. Mr O had told it that the money was a refund of flights he'd purchased. But this didn't match up with the nature of the credits.

Our adjudicator had sent him a copy of his account statement. And Mr O had said that a credit for £700 was this flight refund. He said a friend had paid for it and this had been refunded. A credit of £390 was money owed by a friend, but he didn't give that person's name. And a credit of £228 was a refund for a jacket purchased online. There were now inconsistencies to what he'd said in the names of the senders. And no explanation of why these amounts were reported as fraudulent or any evidence to support these being genuine. So, he thought that Mr O had known that these were fraudulent payments. Santander had a basis to register the marker and to decide to close his account.

Mr O didn't agree. He said that he didn't accept the outcome. And he said he had mental health problems at the time. This marker has meant he can't open an account elsewhere.

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.

Santander has recorded that it did speak with Mr O at the time about these payments. And that he wasn't able to show he was entitled to the money. The initial two credits of £228 and £700 were quickly removed from his account. And his account had been restricted by the time the further credit of £390 was received on 29 April 2020.

I've seen that these credits were reported as fraudulently obtained. Mr O can't account for that and says that this was money arranged through friends and a refund. The names of the people sending the money don't tie up to what he says. And he has no evidence to support

him being entitled to this money. He hasn't explained why his mental health issues at the time would have affected what happened. I find it most likely he was complicit in receiving fraudulently obtained money to his account.

Santander says that it applied the CIFAS marker because Mr O 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 Mr O'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:

- Mr O received fraudulent funds into his account and didn't report this to Santander at the time.
- Mr O authorised the withdrawal of part of the funds and was in control of who had the benefit of this money.
- Santander had grounds to believe that Mr O had used fraudulently obtained funds based on the evidence it had.

I also agree that it was entitled to decide to close his account in these circumstances. I appreciate what Mr O says about the impact on him, but I don't have a reasonable basis to require Santander to do anything more.

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 Mr O to accept or reject my decision before 10 June 2022.

Michael Crewe
Ombudsman