

## The complaint

Ms S complained because Santander UK plc closed her account and recorded a marker against her name with the anti-fraud organisation CIFAS.

## What happened

On 8 September 2020, Santander blocked Miss S's accounts and wrote asking her to get in touch. Miss S rang, and Santander asked her about credits into her account. She told Santander that she'd asked for financial help from relatives abroad after her father's death. She said she didn't know the funds had been fraudulent. Santander asked her for evidence that she was entitled to the money.

There were four credits involved, all sent by different individuals:

5 September	£1,105.00
9 September	£1,000.00
10 September	£895.00
8 October	£1,000.00

In all cases, Miss S had moved the money to her savings account the same day or the following day.

In a letter which Santander received on 2 November, Miss S said she was writing about the £1,000 credit on 8 October. She said her father had died and relatives wanted to help her as she was in the UK at university. She said it was part of a cultural and religious tradition in her home country. So relatives had gathered money, and her uncle had then transferred to a friend, and the friend had sent it to Miss S. She provided contact details for her uncle, but said he hadn't been able to get a reply from the friend who had sent the money. Miss S said she personally knew no details about the transaction.

Santander closed Miss S's accounts and recorded a CIFAS fraud marker against her name. In its final response to Miss S's complaint, Santander explained that the terms and conditions allowed it to close accounts at any time without notice where it was aware that keeping the account open would be unlawful or cause it to be in breach of its legal or regulatory requirements. And it also explained that it didn't have to give further information about how it had made its decision.

Miss S complained to this service. She said that her uncle had sent the money through a money agency because there was no international banking in her home country. She said she'd received the money from the agency her uncle had used. When Santander had asked for evidence, she could only provide screenshots of the transfer, and she said the money agency which her uncle had used to send the money had never replied.

Miss S said that this had led to a CIFAS marker against her name for "*misuse of facility*." She said this was unfair because if she wanted to work in future, she'd need to open a bank account which would be difficult with the CIFAS marker. She asked for the marker to be removed.

Our adjudicator didn't uphold Miss S's complaint. He explained that the "*Misuse of facility*" CIFAS marker related to using the account to receive fraudulent funds. He set out what CIFAS says about recording such a marker – that there must be reasonable grounds to believe fraud or a financial crime has been committed, and that the evidence must be clear, relevant and rigorous, so the organisation could report the person to the police.

The adjudicator considered that Santander had received reasonable evidence to suggest that Miss S's account had received fraudulent funds. Miss S hadn't been able to supply supporting evidence to show she was legitimately entitled to the money. He also pointed out that if Miss S's relatives had wanted to send money from abroad, they could have used wire transfer, or sent the money through their own bank, not via third parties. And the money had come from four different third parties abroad.

So the adjudicator thought it was more likely than not that Miss S was complicit in receiving fraudulent payments to her account. This meant it wasn't unfair for Santander to have recorded a fraud marker against her name.

Miss S didn't accept this. She said she was the one who had been victimised, and it had been mentally exhausting. Miss S said that she had no information about the individuals whose money had credited her account, and she had never been curious about that. She said the money had come from cash abroad in the village where her late father had been born, and some money which he'd had in a small business. She said her uncle had just said she should expect some money in her bank, which had happened.

Miss S said that when Santander had blocked the account and recorded fraud, she'd asked her uncle about the money. He'd told her that he didn't know how to transfer money internationally, so he'd gone to a friend who knew how to send money abroad through an agency. She said she'd lost her father at the time and her mother had been ill with covid. Her uncle hadn't been able to trace the friend who'd found the agency for him. She provided the contact details for her uncle and his contacts, which she'd supplied to Santander.

Miss S's complaint was passed to me for an ombudsman's decision.

### **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.

CIFAS is a fraud prevention agency. Members, usually financial organisations, can record information about their customers. There are different categories, and here, Santander recorded a "*Misuse of facility*" marker against Miss S's name. This marker is recorded when an account, policy, or some other financial service is used fraudulently by the account holder. This type of marker stays on the record for six years.

The organisation recording a CIFAS marker must meet a high standard of proof. CIFAS sets this out in this way:

*"There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]  
The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police."*

So I've considered whether or not the evidence which Santander had, met these requirements.

I find that it did. Santander's evidence is compelling, and some of my reasons are that:

- Miss S wasn't able to provide Santander with any documentary evidence to back up what she said about her uncle having arranged with a friend to send the money through an agency;
- The fraudulent credits into Miss S's account came not from one agency, but from four different individuals;
- If Miss S's uncle or other relatives had wanted to send genuine funds from abroad, they could have used wire transfer, or sent them via their own banks, rather than through third parties;
- Miss S also benefited from the money, which she transferred promptly to her savings account. There's nothing to suggest that she was a "money mule" who transferred the funds to a third party under duress;
- If Miss S's uncle or other relatives had been tricked by third party fraudsters (like the friend or the agency Miss S mentioned) into sending them the money, that money would never have reached Miss S. The fraudsters would have stolen it.

So I consider that Santander had fair and reasonable grounds to believe that Miss S was complicit in the fraud and to record a CIFAS marker against her name.

I've also looked at Santander's closure of Miss S's accounts. The terms and conditions of her account set out rules about closure of accounts. Section 17.2 sets out that customers, or Santander, can close the account, and it explains the notice which Santander give in these circumstances. It says:

*"If you are in significant breach of these Conditions ... we may close your account on giving immediate notice or less notice than that specified in this Condition."*

Section 17.3 goes on to say:

*"It is a condition that you do not:*

*...*

*c) misuse your account; or*

*d) act dishonestly with us; or*

*e) act in any way to give rise to reasonable suspicion of fraud or other criminal activities.*

*And, if any of the above applies, you will be in breach of these Conditions and we can close your account on giving you immediate notice or less notice than that specified in Condition 17.2 in Section 2A.*

*We may also close your account at any time without notice where we are aware that keeping your account open would be unlawful or cause us to be in breach of any of our legal or regulatory requirements."*

In the light of these sections, and all the circumstances of Miss S's accounts, I find that Santander acted fairly and reasonably when it closed Miss S's accounts without notice.

### **My final decision**

My final decision is that I consider Santander UK plc acted fairly and reasonably when closing Miss S's accounts and recording a CIFAS marker against her name. So I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 16 June 2022.

Belinda Knight

**Ombudsman**