

## **The complaint**

Mr A is unhappy that Santander UK Plc has loaded a Credit Industry Fraud Avoidance System (“Cifas”) marker against him.

## **What happened**

In January 2024 Mr A was approached by a friend on a social media platform. He says they told him they needed to send money to his account so he could withdraw this in cash for them. They told him he could keep £200 as payment for this.

Santander later received notice that the funds paid into Mr A’s account were fraudulent. It blocked his account while it carried out a review and asked him for further evidence of where the funds came from.

Mr A says he got in touch with the friend who sent him the money and they told him to say the payments Santander had asked about were being sent to him by his uncle. Mr A first told Santander this and provided falsified messages between him and his ‘uncle’, claiming the money was being sent to help support Mr A’s mother. He later clarified that the information had been sent to him by a contact on social media.

Shortly after receiving this information Santander concluded its review and on 22 January 2024 wrote to Mr A to let him know it would be closing his account. It also loaded a Cifas marker against him.

Mr A contacted Santander to appeal its decision. On 29 February 2024 Santander responded to Mr A’s complaint. It said it had reviewed the reasoning provided by Mr A but didn’t think this proved his entitlement to the funds so it was unable to overturn its decision.

Mr A brought the complaint to our service but our investigator didn’t uphold the complaint. They didn’t think Santander’s decision to close Mr A’s account and load a Cifas marker against him was unreasonable. Mr A didn’t accept this, so the complaint has been passed to me to make a 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.

Mr A says Santander shouldn’t have recorded a marker against his name. He’s said he didn’t realise what he was becoming involved with when he accepted the fraudulent funds into his account. He thought he was helping out a friend and feels he was taken advantage of.

The marker that Santander filed with Cifas is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, they're not required to prove beyond reasonable doubt that Mr A is guilty of fraud or a financial crime, but they must show that there are grounds for more than mere suspicion or concern. Cifas says:

- “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.
- In order to file the member must have rejected, withdrawn or terminated a Product on the basis of Fraud”

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Mr A's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity. There's also a requirement that Santander should be giving the account holder an opportunity to explain what was going on.

Here Mr A received funds into his account that were confirmed to have originated from fraud. Santander asked Mr A about this and at the time he said the money had been sent to him by an uncle who was helping his family with rent. He then provided messages he said were between him and his uncle discussing this payment and what it was for.

But according to Santander's notes he later confirmed a friend told him he was sending him the money. This is also what Mr A told our service when bringing his complaint. So, at the time Santander asked Mr A about the origins of the funds, he knowingly provided false information and evidence.

Mr A has since explained that when Santander asked him about the funds he panicked and he asked the sender of the funds for help and they instructed him to lie and provide the false evidence. He's said he now realises this was a mistake. He's explained the emotional impact this situation has had on him and I'm sorry to hear it. I've taken his circumstances into account when considering his complaint. But my role is to consider whether Santander has acted unreasonably in loading a Cifas marker against him and I don't believe it has.

We've asked Mr A to provide any evidence he has of the conversations between him and his friend which might support his story. He's been unable to do this as he's explained he no longer has access to any of this correspondence. So aside from Mr A's testimony, which has changed from when he first told Santander where the money came from, we have no evidence or information about how the transfer of the funds came about, Mr A's relationship with the sender or what Mr A understood about the money being sent to him.

Mr A's testimony is that he didn't question where the funds were coming from or why they were being sent. He simply trusted a friend and had no reason to suspect anything unusual about the situation. But it seems strange that Mr A thought it was reasonable that a friend would offer him £200 – around 20% of the amount they were transferring to his account – just to withdraw some cash for them.

And in general, I think it's unusual that Mr A didn't ask more about why his friend was asking him to do this at all. And whilst Mr A has said he didn't question things because he was

naïve, I think he reasonably ought to have been concerned that someone was offering him £200 to receive money into his account without a plausible reason.

In addition, if Mr A believed the funds were legitimately from his friend, and didn't understand they might be illegitimate in some way, it's not clear why when he was questioned by Santander he didn't just tell it the money had been sent by a friend and why. Instead he appears to have asked his friend what he should say, and, under his friend's instruction, provided a false explanation and falsified evidence to Santander.

The requirements around banks lodging markers at Cifas include there being sufficient evidence that the customer was aware and involved in what was going on. Santander has provided evidence that Mr A has received funds into his account that have originated from fraud. I don't think Mr A's actions support that he is an innocent party of the transfer of the funds and was unaware of their origins. He has been unable to provide any corroborative evidence to support his testimony, and I haven't seen anything to persuade me that Mr A was vulnerable or under duress.

Having looked at all the evidence I'm satisfied this shows there were reasonable grounds to suspect that fraud had been committed. And from the evidence I've seen that Mr A was likely complicit in this. On this basis I don't think it would be fair or reasonable to ask Santander to remove the marker or pay Mr A compensation.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 22 October 2024.

Faye Brownhill  
**Ombudsman**