

The complaint

Mr E complains that Santander UK Plc unfairly loaded an adverse fraud marker against his name.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

Mr E held an account with Santander. In mid-2021, Santander received reports from a third-party bank that Mr E's account had been in receipt of the proceeds of crime. It placed blocks on the account and carried out a review, which included attempting to ask Mr E to account for the credits.

Santander didn't receive any responses to its attempts, so it sent a notice that it intended to close the account and loaded an adverse fraud marker against Mr E's name on the Cifas database.

In early 2023, Mr E contacted Santander to complain about the loading of the fraud marker. He told Santander that he was expecting the funds reported from a friend, but when asked for evidence of this, he didn't provide any.

Mr E complained again in late 2023. On this occasion he said that the joint account holder, a relative of his, had been taken advantage of by a third-party and the account was used by that person to receive the proceeds of crime. He provided evidence that he was not in the UK at the time the funds were sent to the account.

Santander reviewed this new information, but maintained its position that the marker was loaded fairly. Unhappy with this, Mr E referred matters to our service for an independent review.

An Investigator considered the evidence both parties provided, but didn't recommend Mr E's complaint be upheld. In summary, they found that the marker had been loaded, and retained, fairly by Santander.

Mr E disagreed. So the matter has now been referred to me to decide.

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.

Was the recording of the Cifas marker fair?

One of the relevant considerations here is set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards regarding this

complaint are:

1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
2. That the evidence must be clear, relevant and rigorous.

My understanding of these standards is that a member cannot simply load a marker against an individual based on mere suspicion. It must be able to meet a higher bar; in that a customer was likely a witting participant in the alleged conduct. This has been reinforced by Cifas' Money Mule Guidance, which it released to its members in March 2020.

Santander has not retained all records—technical or otherwise—regarding its justification for loading the marker as it ought to have, and in line with the guidance set out by Cifas. It has however referred to some of its records in its submissions which I have considered in my decision. There is no reason for me to doubt the accuracy of the contemporaneous notes Santander has relied upon.

As part of its submissions, Santander has demonstrated that it met the first of the two burdens of proof above. It says that it received reports from a third-party bank providing information that its customer had been the victim of a crime. And that account is sufficiently detailed for me to be persuaded that Mr E's account was in receipt of the proceeds of that crime.

Turning to the second of the above two standards of proof, I'm also persuaded, on the balance of probabilities, that this has been met.

Mr E's account that was held with Santander was held jointly. Sadly, the joint account holder is now deceased. I'm aware the deceased was a family member of Mr E's, so I'd first like to extend my condolences for his loss.

While the account was held jointly, I have noted from the information associated with it that the contact details supplied were Mr E's. The email address and telephone number recorded on the account are both identical to the details Mr E has provided our service as part of his complaint. So it's likely that any contact attempted by Santander would have been received by Mr E.

Santander, upon consulting its records, says that it attempted to contact Mr E once the report had been received by the third-party bank; this was so that it could give Mr E an opportunity to account for the funds that had been received. And as it didn't receive a response, it closed the account and loaded the marker. I find that to have been a reasonable course of action at the time. It had received a fraud report and had been unable to obtain an innocent explanation for this from the account holder.

Mr E engaged with Santander circa 2 years later, when the marker began to impact his financial accounts. Santander's records show that Mr E's initial explanation for receiving the funds was that he was expecting those funds from a friend. But the name given of that friend didn't match the name of the sending account holder. Santander asked Mr E to provide evidence in support of this testimony, but none was received. I find it reasonable at this stage that Santander decided to retain the marker placed on the Cifas database.

Mr E then approached Santander again in late 2023. On this occasion he provided the same account as the one he has given our service. In summary, this was that his relative was taken advantage of by a third-party who likely used a mobile telephone he'd left in the UK to carry out the transactions without his knowledge.

I have considered this account carefully, but I'm not persuaded it's sufficient to support a removal of the loading against his name. I've have come to this conclusion for the following reasons:

- Mr E has provided no evidence in support of his recent explanation. I find that had this been the case, a report likely would have been made to law enforcement or there would be supporting evidence that drew Mr E to believe his relative was being taken advantage of.
- Santander's records show that within minutes of the funds entering the account, an attempted transfer was made from the account to a third-party bank. That intended recipient account was in the name of Mr E. I find it unlikely that a third-party would have used Mr E's account for the onward transfer of funds.
- While Mr E has provided evidence supporting his assertion that he was out of the country at the time, that doesn't exonerate him from the actions carried out on the account. It would be possible to receive funds into a UK account and move them on to another without being in the country.
- Mr E has changed his testimony. And that change in testimony places doubt as to the reliability of his account.

I want to be clear that it is not my role to make findings on whether Mr E was complicit in the activity reported on his account. My findings focus solely on whether the application and retention of the fraud marker was fair and broadly aligned with the guidance set out by Cifas.

Having considered the evidence carefully, I find that it was. I therefore won't be asking Santander to remove that marker.

My final decision

For the reasons I have set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 7 July 2025.

Stephen Westlake
Ombudsman