

## **The complaint**

Mr O complains Santander UK Plc recorded a marker against him on a fraud database. He doesn't think it's treated him fairly.

## **What happened**

A summary of what happened is below.

Mr O had an account with Santander. In December 2022, it was credited with several thousands of pounds from a third party, through bank transfers. The funds were spent straight away. However, the incoming payments were later reported as fraudulent to Santander by the sending bank.

Santander restricted the account and requested information to support why Mr O had received the payments and was entitled to the funds. In response, he said, the money from the sender was for Christmas presents. Santander requested some further information but didn't find Mr O's explanation satisfactory given the fraud report. It decided to record a marker at Cifas, as it believed he had been complicit in receiving fraudulent funds.

Mr O found out about the marker and complained to Santander earlier this year that he'd not done anything to cause this. He said that when this had happened, he was young and financially stressed. Someone had approached him online and suggested how they could help him make quick money. He hadn't appreciated this was a scam and thought it harmless. However, he now realised he was being used.

Santander reviewed the information but didn't think it had made a mistake in the steps it had taken. Dissatisfied, Mr O contacted us to challenge the decision. He said he wasn't given the chance to explain his side of things and maintained he hadn't been directly involved or aware of any fraud. He submitted how the marker was affecting him financially and personally.

One of our investigators gathered information. She acknowledged what Mr O had said but didn't find his testimony persuasive, noting what he'd originally told the bank the payments were for in 2022 and that he didn't have any supporting evidence to show what he'd described now to be the case, and he was quite vague when questioned. The investigator thought that based on the available evidence, it was more likely than not that Mr O had been complicit in receiving and benefitting from fraudulent funds and Santander had met the bar for loading the fraud marker and there wasn't a basis for removing it.

Mr O asked for an ombudsman's decision. He said the investigator's conclusions were speculative rather than based on clear proof of dishonesty and the lack of evidence from him was being used against him, whilst acknowledging the time that had passed. He maintained he was an innocent party in the transactions.

## **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'm sorry to disappoint Mr O but I'm not upholding his complaint, and I'll explain why.

The marker that Santander has filed is intended to record that there's been a 'misuse of facility'— relating to using the account to receive fraudulent funds. To file such a marker, it's not required to prove beyond reasonable doubt that Mr O is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance 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.

What this means in practice is that the business must first be able to show that fraudulent funds have entered Mr O's account, whether they are retained or pass through the account. Secondly, the business will need to have strong evidence to show that Mr O was deliberately dishonest in receiving the fraudulent payments and knew they were, or might be illegitimate payments. This can include allowing someone else to use their account to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity.

To meet the standard of proof required to register a fraud marker; the business must carry out checks of sufficient depth and retain records of these. This should include giving the account holder the opportunity to explain the activity on their account to understand their level of knowledge and intention.

So, I need to decide whether I think Santander has enough evidence to show fraudulent funds entered Mr O's account, and he was complicit. And I'm satisfied that it has. I'll explain why by addressing what I consider are the salient points.

Santander has provided evidence that it received a report, saying that funds which entered Mr O's account was because of a fraud. Looking at what was reported, I'm satisfied Santander had reasonable evidence of fraud and needed to make enquiries to meet its regulatory obligations to investigate such matters. I won't be sharing this information. Where there are sensitivities surrounding evidence supplied in confidence, I have to balance Mr O's expectations with the impact sharing information might have on our ability to receive and consider evidence provided in confidence. Our rules (DISP 3.5.9(2)R) allow me to do this. Though, I'd like to assure Mr O that I have reviewed this evidence impartially and objectively as my role requires.

Mr O says he wasn't given the chance to explain his side, but this isn't true. Upon receipt of the fraud report, Santander has shown it contacted him. It asked him to explain why he'd received the payments. So, I'm satisfied he was given a fair opportunity to provide supporting evidence. It has also tried calling him when reviewing his complaint. Crucially, if Mr O genuinely thought this was a harmless way to make money and he thought he was simply helping someone and nothing more, there's no reason why he couldn't have told the bank this when it reached out to him and given it any information he did have. Instead, he said the funds were for Christmas presents, which wasn't true, especially when looking at the details in the fraud report and how the funds were obtained.

I'm afraid the available evidence suggests Mr O wasn't telling the bank everything, which points to him knowing there were concerns about the legitimacy of the payments. This was Santander's position when it looked at the evidence. Considering this, and without there being anything to show he was entitled to receive and spend the funds, I think the evidence is robust enough to justify the fraud loading and I don't consider it speculative.

In conclusion, I'm satisfied Santander had enough information to support its actions, with the

report it received, the account activity and the responses Mr O gave. It follows that I don't find its actions were unfair to record the marker, maintain it and close the account (there's provision for that in the account terms and conditions). All things considered, I won't be requiring any further action to be taken to resolve this complaint.

### **My final decision**

My final decision is that I don't 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 12 January 2026.

Sarita Taylor  
**Ombudsman**