

The complaint

Mr A has complained that Santander UK Plc registered a marker against him at CIFAS, the national fraud database.

What happened

In early 2022, Mr A received around £28,000 into his Santander current account. Santander blocked the account and asked Mr A where he'd got this money. They received a report that the money was the proceeds of fraud.

Mr A told Santander the money was from his cousin, to pay for two funerals. He was unable to evidence this and didn't want to talk about it further. Santander closed his account and registered a CIFAS marker.

In 2023, Mr A complained. He claimed his friend had hacked him, as his friend would be able to guess his password. He said he'd been unaware of the credit, and first found out about it in Santander's final response in spring 2023. He claimed that Santander had never talked to him about the credit. He claimed that he never told Santander the money came from his cousin, that there was no funeral, and that someone must have impersonated him on the phone. He was unable to evidence any entitlement to the funds he received.

Our investigator looked into things independently and didn't uphold the complaint. Mr A appealed, so the complaint has been passed 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.

In order to register this marker, Santander were not required to prove beyond all reasonable doubt that Mr A had done something wrong. They did need to have reasonable grounds to believe that he'd misused his account, which went beyond a suspicion or concern, and which had appropriate supporting evidence. Having carefully considered everything that both sides have said and provided, I think Santander did have sufficient grounds to register this marker. I'll explain why.

Santander received an official report that the money Mr A received came from fraud.

Mr A said he was hacked by his friend, and it wasn't him using his account. I can see that the device used to access the account was Mr A's phone – the only registered device on the account, and the same one he'd been using for a long time. The model of phone used matches the model of phone Mr A said he was using at the time. The phone number used is the same phone number Mr A used before this and still uses now. The IP address used is one which Mr A used for his genuine spending. There is no evidence of any hacking or unauthorised access of the account. And I note that in the days prior to this incident, this account received and paid on other fraudulent funds sent from Mr A's other bank account, which Mr A previously confirmed he'd sent himself. I'm reasonably satisfied that the person accessing Mr A's Santander account was either Mr A or someone he'd given permission to.

Mr A has not been able to provide any evidence that he was entitled to the money he received.

Mr A says that he didn't tell Santander the money was from his cousin for a funeral, that that story was fictitious, and that he was unaware of the fraudulent credit until spring 2023. I've listened to a recording of when Santander called him back in early 2022. The phone number on file was the same one Mr A uses now. The man who answered was able to pass security and be identified as Mr A, and his voice sounds like the same Mr A we've been speaking to. I find that this man was Mr A.

In that call, Mr A confirmed he knew about the £28,000 credit, adding that he'd been unable to access it due to his account being blocked. He confirmed he had told the bank that the money was from his cousin. The staff member told him they'd found out that the money came from fraud, and they were closing Mr A's account. Mr A accepted this and agreed he'd withdraw his remaining funds from the branch, as he was actually at the branch at that moment. Mr A has confirmed to our service that it was indeed him who then withdrew his remaining funds from that branch at that time. So, contrary to Mr A's latest testimony, he was aware of the credit at the time and did tell Santander the fictitious story.

Mr A provided Santander with a bank statement from the fraud victim's account, in order to try to claim entitlement to the credit, despite now saying that he didn't know the victim. It is not likely or plausible that Mr A would have access to that statement if he was uninvolved with the fraud and if the credit was made into his account without his knowledge or consent.

I also note that at about the same time, Mr A received a large credit of roughly the same amount into his other bank account. This was then paid on using the same phone and IP address which Mr A used to access his Santander account. And Mr A admitted that it was him who paid that other money on. It's not likely or plausible to be a coincidence that Mr A received two very large, very similar sets of fraudulent funds at about the same time.

I'm afraid that Mr A's testimony has been notably inconsistent. As I explored above, he's given conflicting testimony about where the money came from, who was accessing his account, and whether he was aware of the credit at the time. Mr A also claimed that he never spoke to Santander about this at the time, but I can see he spoke to them about this a number of times. And he said he was abroad and so couldn't have been involved – but this incident actually happened the week after Mr A returned from abroad.

Lastly, I've not seen any evidence which makes it seem unlikely or implausible that Mr A knowingly received the proceeds of fraud.

In summary, Mr A received funds which were confirmed as being fraudulent. I'm satisfied that Mr A authorised the access of his account, and that he spoke to Santander at the time and claimed to be entitled to the money. He's not been able to evidence any entitlement to the money, and has since confirmed that the story he told Santander was actually fictitious. He had access to the fraud victim's bank statement despite claiming to be uninvolved with the fraud. He's admitted to receiving and paying on other fraudulent funds of a similar amount at about the same time in his other account. And his testimony has been inconsistent, and at times clearly untrue.

So I find it's fair that Santander registered the appropriate marker with CIFAS. It follows that it was also fair they closed Mr A's accounts, which they were allowed to do under the terms. This is a difficult message for me to give, and I know it's a difficult message for Mr A to receive. But given the evidence I have and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

My final decision

For the reasons I've explained, I don't uphold this complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 December 2023.

Adam Charles
Ombudsman