

The complaint

Miss S is unhappy that Marks & Spencer Financial Services Plc, trading as M&S Bank, refused to allow her to pay an outstanding balance she owed them in instalments and reported adverse information to her credit account because of that outstanding balance.

What happened

In March 2021, M&S wrote to all their current account customers, of which Miss S was one, and advised that they'd be closing all current accounts later that year. The letter also advised customers what needed to be done in various scenarios, including where a customer had an overdrawn balance on their account, as Miss S's account did.

In August 2021, Miss S arranged a switch of her current account to another bank. However, the other bank didn't provide Miss S with an overdraft facility, which meant that the overdrawn balance present on Miss S's account at the time of the switch, which was approximately £690, remained liable for Miss S to pay to M&S.

Miss S then discussed repayment options for the outstanding balance with M&S over the next few months. But M&S wouldn't agree to an instalment plan on the outstanding balance as Miss S wanted, and Miss S wasn't happy that M&S were making adverse reports to her credit file about the outstanding balance. So, she raised a complaint.

M&S looked at Miss S's complaint. But they didn't feel that they'd acted unfairly towards Miss S in how they'd managed the situation and so they didn't uphold the complaint. Miss S wasn't satisfied with M&S's response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they also didn't feel that M&S had acted unfairly or unreasonably and so they also didn't uphold the complaint. Miss S remained dissatisfied, so the matter was escalated to an ombudsman for a final 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.

Having done so it seems evident that M&S did provide Miss S with a significant period of notice – approximately five months – that her M&S current account would be closing and that therefore Miss S needed to make alternative banking arrangements, including resolving any unpaid credit such as an overdrawn balance either by repaying that balance or arranging for the debt to be taken on by a new current account provider.

However, although Miss S arranged to switch her current account to another bank, she didn't repay the overdrawn balance on her M&S current account and she didn't arrange for her new bank to take on the debt. This meant that when the current account did switch to the new bank, Miss S continued to owe the previously overdrawn balance of approximately £690 to M&S, but no longer had any arrangement in place with M&S in regard to that balance.

Under these circumstances I feel it was fair for M&S to make adverse monthly reports to the credit reference agencies in regard to this balance. And I say this because M&S, like all providers of credit, have an obligation to make accurate reports to the credit reference agencies, and because I'm satisfied the reports that M&S were making were accurate.

Miss S may contend that she contacted M&S after the current account switch to negotiate a payment plan to repay the outstanding balance. But as mentioned, Miss S had had five months' to make the necessary arrangements for the impending closure of her M&S current account, and this notice included being informed by M&S of the possible consequences of not repaying any overdrawn balance before switching her current account to another provider – including that it might not be possible to close the M&S account if a debt remained on that account for her to pay, and that her credit file might be adversely affected as a result.

It also must be noted that Miss S didn't liaise with M&S in any way before instructing the current account switch which left her indebted to M&S with no agreement or arrangement in place, but that she only contacted M&S following the current account switch, by which time her unauthorised debt to M&S had already been established by her actions.

Miss S spoke with M&S on 17 September 2021 and provided an income and expenditure assessment to M&S shortly afterwards. Following the receipt of this assessment, M&S wrote to Miss S asking her to contact them, and M&S have also been able to demonstrate to my satisfaction that they attempted to contact Miss S themselves by telephone on four separate occasions between 2 and 11 October 2021, all without success. M&S then sent a further letter to Miss S again asking her to get in touch with them.

On 20 November 2021, nearly twelve weeks after Miss S had established her unauthorised debt with M&S by switching her current account to another provider in the manner that she did, Miss S contacted M&S again and discussed her financial position with them. Miss S then confirmed that she didn't have any available disposable income to repay the debt, but that her mother was reducing her rent by a small amount which would enable her to repay £8.39 per month.

M&S agreed to accept Miss S's offer of payment in the form of a 0% interest debt consolidation loan, and they sent a loan agreement to that effect to Miss S for her to sign and return. But Miss S also wanted M&S to remove the adverse reporting which M&S had made to her credit file up to that time, which M&S weren't willing to do. So, Miss S raised her complaint.

However. In consideration of all the above, I find it very difficult to conclude that M&S should fairly remove the adverse reporting from Miss S's credit file here. Indeed, given that the unauthorised debt was established because Miss S instructed the current account switch to the new bank without arranging for either the repayment of her overdrawn balance, or for the new bank to take on the debt, I'm satisfied that the adverse reports that M&S are reporting for this unauthorised debt are accurate and fair.

Additionally, given that Miss S didn't come to an arrangement with M&S until nearly three months after the current account switch, I also feel that the length of time that M&S have made those reports – which would only stop after Miss S had officially agreed to the debt consolidation loan so that an arrangement to pay was in place – is also fair.

I'm aware that Miss S feels that M&S didn't provide a reasonable standard of service to her surrounding this balance, including that they didn't call her back when they'd promised or make sustained efforts to contact her by telephone. But having reviewed the contact records that M&S have provided, I'm satisfied that M&S did make regular and sustained attempts to contact Miss S, including by both letter and telephone calls. And given that the balance in

question was owed by Miss S to M&S and had become an unauthorised debt as a result of Miss S's own actions, I feel it was incumbent on Miss S to have made further efforts to contact M&S here, rather than the other way round.

Ultimately, I'm satisfied that M&S did give Miss S fair notice of their intention to close their current accounts and the actions Miss S needed to take in regard to her overdrawn balance if she wanted to avoid precisely the outcome that's happened here – that an unauthorised debt was established which I'm satisfied has been fairly reported to the credit reference agencies as such.

All of which means that I don't feel that M&S have acted unfairly or unreasonably towards Miss S in the manner that she contends, and it follows from this that I won't be upholding this complaint. I trust that Miss S will understand, given all that I've explained, why I've made the final decision that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 13 October 2022.

Paul Cooper
Ombudsman