

## **The complaint**

Mr G complains that Santander UK PLC unfairly restricted his bank account, and that it used some of the funds held within that account to repay a debt owed by a limited company of which he is the director.

## **What happened**

Mr G is the owner and director of a company, which I'll refer to as "S". Both Mr G and S banked with Santander.

S obtained a £50,000 Bounce Back Loan from Santander in May 2020. Between May and August, Mr G transferred the majority of S's loan funds to his personal account with Santander.

Santander applied a restriction to Mr G's account on or around 29 July 2020, while it undertook a review.

In light of concerns as to S's eligibility for the Bounce Back Loan it had obtained and the way the funds were being used, Santander also undertook a review of its relationship with Mr G's company. The bank subsequently decided that S was ineligible for the loan, so it terminated the agreement and demanded immediate repayment of the funds.

On 14 August, Santander removed the credit balance of around £5,800 held in Mr G's personal account, and subsequently applied this to the amount owed by S in respect of the Bounce Back Loan.

Santander removed the restriction from Mr G's account on 14 August. The bank says the account was later closed on 28 August.

Mr G doesn't think it was fair for Santander to restrict his account, or to use the funds he held in his own account to repay debts owed by his company. This is in part because he doesn't think S did anything wrong in obtaining the Bounce Back Loan, as he believes the company met the eligibility criteria. But he also argues that Santander shouldn't have used his personal funds to repay money owed by his company.

Mr G is also unhappy that the restriction caused Direct Debit payments to fail and that the account was pushed into an overdrawn position that he struggled to rectify as Santander wasn't clear with him as to what was happening.

Santander's actions in respect of S's Bounce Back Loan are the subject of a separate complaint with our service.

## **My provisional decision**

I issued a provisional decision on this complaint last month, setting out why I didn't intend to uphold it. I said:

Santander has a number of legal and regulatory obligations to meet in providing banking services to its customers. Banks are required to keep accounts and their use under review, and may need to suspend access or services in order to do so.

In addition to its broader legal and regulatory obligations, Santander was also expected to keep matters relating to the Bounce Back Loan under review in line with its anti-fraud requirements under the government-backed loan scheme. While Mr G didn't hold a Bounce Back Loan, his company did – and the funds from that loan had been transferred to his personal account.

The terms and conditions of Mr G's account allowed Santander to suspend its services. The bank wasn't required to notify Mr G of this or of its decision to review its relationship with him. So it was entitled to take the actions it did. And I think these actions were reasonable in the circumstances, particularly given that:

- Under the separate but related complaint from S about Santander's actions in respect of the company's accounts, I've found that the bank had valid concerns as to S's entitlement to the loan.
- A significant portion of S's Bounce Back Loan funds had been moved to Mr G's personal account. That represented a possible breach of the terms and conditions of S's loan (which required the funds only to be used for S's business purposes). The bank therefore took steps to protect its ability to recover these funds, which I think was reasonable.

I understand why Mr G doesn't think Santander was entitled to use funds held in his personal account to repay the debt owed by S under the Bounce Back Loan agreement. The debt was owed by a distinct third party, which leads me to think that the bank didn't have the contractual right of set off to use the money in this way. But that isn't the end of the matter. In addition to the contractual position, I must also consider what is fair and reasonable in the individual circumstances of this complaint. And having done so, my view is that it was fair and reasonable for Santander to remove these funds for this purpose in the circumstances here because:

- In reviewing the complaint from S, I've provisionally concluded that Santander reasonably decided that the company hadn't been eligible for the loan it obtained. The loan only came into existence as a result of Mr G's self-declaration as to his company's eligibility, which the bank had reasonable grounds to consider inaccurate.
- The loan was to be used only for business purposes and I've not seen any reasonable grounds for the transfer of the £50,000 to Mr G's personal account. While the payment of a salary could well amount to a legitimate business expense, this seems difficult to justify in the circumstances that apply here. Most notably, Mr G wasn't receiving salary payments at such a level prior to S's receipt of the loan and a large portion of the funds were swiftly used to pay other finance providers and transferred to other personal payees.

- It would not be fair for Mr G to benefit from these funds given that his company was not entitled to them in the first place and when the loan couldn't be used for personal purposes. Particularly as Mr G would've been – or, at least, ought reasonably to have been – aware of both of these issues.

Therefore, it follows that I'm not intending to require Santander to return the funds in question to Mr G.

I can see that the restriction of the account and the removal of the funds impacted a couple of the Direct Debit payments that Mr G had scheduled around the time. The statement I've seen suggested that one was returned unpaid on 14 August – which was correct, as there were no funds in the account after the bank had legitimately removed the balance with a view to applying them to S's Bounce Back Loan debt. It seems that a subsequent Direct Debit of around £33 was paid despite the lack of funds, creating a small overdraft position that I presume Mr G would've needed to settle in order for the account to be closed. But that hasn't left him any worse off financially, and as I understand the account was closed on 28 August 2020 it doesn't seem to have caused any unreasonable delay either.

Mr G didn't accept my provisional decision. He replied to say, in summary, that Santander had delayed the closure of his account and that he'd continued to incur monthly charges after August 2020 – when I'd said the account had been closed. He said the bank had continued to deduct monthly account charges thereafter, causing a debit balance. With regard to the use of the Bounce Back Loan, Mr G said that the transfer of funds to his personal account had been to repay himself for invoices he'd settled on S's behalf.

Santander confirmed it had nothing further to add.

### **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, and with particular regard for the additional comments and information that Mr G has provided, I've not seen reason to depart from my provisional decision. I'll explain why.

Looking firstly at the use of the Bounce Back Loan, Mr G has suggested that the transfer of the loan funds to his personal account represented the repayment of a director's loan used to settle invoices. But he's been unable to substantiate that. He's sent us some copy invoices, but there's no evidence that he paid them out of his own pocket (or indeed that they were settled at all). So this hasn't led me to reach a different view as to the inappropriate use of the loan funds or, therefore, the legitimacy of Santander's actions to recover the money and end its relationship with Mr G.

I've reviewed the closure of Mr G's account in light of his comments that it wasn't closed promptly in August 2020, and that this led to some problems and unfair additional charges. But the bank has confirmed that the account was closed on 28 August 2020, and evidenced this by way of a transaction record. So I don't think there was any delay in closing the account or that any additional charges were applied. I understand Mr G may in fact be referring to the account held by his company, S, as that was evidently closed later. But that has been addressed under the separate complaint we've considered from S.

**My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 March 2023.

Ben Jennings  
**Ombudsman**