

## **The complaint**

Ms M complains Santander UK Plc treated her unfairly when it defaulted her account. To resolve matters, she'd like the default removed from her credit file.

While the complaint has been brought with the assistance of a third party, for ease of read, I will refer to Ms M throughout.

## **What happened**

Ms M held an account with Santander, with an overdraft limit of £1400. When the account exceeded the arranged limit, Santander wrote to Ms M asking her to get in touch. It sent several letters, after which it removed the limit and asked for repayment of the whole amount. When it didn't get a response, it defaulted the account and passed it to a debt recovery agent for collection.

The debt recovery agent got in touch with Ms M in January 2023. She contacted it and Santander and learned about the default.

Ms M complained, she said she'd never got any correspondence from Santander about the account and what it was intending to do, and this was alarming as she had updated her address details when she had moved. She also raised concerns it had applied charges on top of the overdraft.

Santander investigated and issued a response. It said it couldn't find any evidence of the address being updated, it had written to the details it held, so it hadn't made any error. It added the account had been defaulted correctly and as such, it wouldn't be removing the default or refunding the charges.

Ms M asked our service to investigate and one of our investigators looked into what had happened. Following an approach, Santander agreed to remove the charges so that Ms M only needed to repay her overdraft. The investigator put this to Ms M, but found there was no mistake by Santander in what it had done because:

- There was no evidence Ms M had attempted to update the address and if she had, she had access to her banking app to check it had been completed.
- Santander had contacted her several times at the details it held.
- She had knowledge of the overdraft, and should have taken steps to ensure it was serviced.

Ms M didn't accept the conclusions. In summary, she found the offer to remove the charges insulting, given she didn't think these should have been applied in the first place. She wanted to know why the address hadn't been updated, who had been monitoring her account and sent the letters. Why they hadn't realised something wasn't quite right and looked into things further, before taking the action it had. She questioned how the debt collection agency had managed to contact her at her current address, but Santander had

failed to find her. She said she had made a Data Subject Access Request (DSAR) and information from this would shed light on poor practice from the bank.

Our investigator reviewed Ms M's comments, including noting she had made a DSAR but said this didn't change her mind.

The case was put forward for 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.

I'm conscious Ms M has made a DSAR to Santander, which she feels may help support her complaint. For the avoidance of any doubt, I'm satisfied that I have all the necessary information for me to reach an appropriate outcome to the complaint. As a result, I am proceeding with my decision.

It's clear Ms M feels strongly about what's happened. She's made a detailed submission in support of her complaint, which I have read and considered. I hope the fact that I do not respond in a similar manner will not be taken as a discourtesy; as an informal dispute resolution service, we are tasked with reaching a fair and reasonable conclusion with the minimum of formality. In doing so, it is not necessary for me to respond to every point/question made, but to concentrate on the crux of the issue. The relevant question is, did the bank do something wrong? I don't think it did and I'll explain why.

It was Ms M's responsibility to manage her account, including keeping Santander updated of her contact details. I note she maintains she changed her address, but there's no evidence of this. In any event, if she had updated her details, I would have expected her query why she had stopped getting any information about the account (not just over a few months but what was an extended period of time). But there's no evidence of this, until the complaint (sometime later).

The last payment from Ms M (before the default) was in May 2022. Up to that point, she had been paying small credits to keep within the arranged limit. Given the overdraft was still outstanding and she knew she'd only paid £32, I'm satisfied she was aware the debt required regular servicing and that contractual obligation hadn't changed irrespective of the address.

Ms M has questioned why the bank didn't do more but it didn't need to. It contacted her a number of times at the details she'd given. As I have said, it's a customer's responsibility to manage their account and any borrowing on it. The evidence shows Ms M knew she was up-to and close to the limit. Therefore, I'm persuaded she would have known she needed to take steps to manage it.

Weighing everything up and for the reasons I have given, I don't think Santander has treated Ms M unfairly and as such, there's no grounds to request the default be removed. I've also not seen anything compelling that the charges were incorrectly applied.

However, Santander has agreed to reduce the principal debt back to £1400 by removing some of the charges and said it's happy to speak to Ms M to discuss a suitable repayment plan. Given what I have found, I think this offer is fair.

**My final decision**

My final decision is Santander UK Plc has made an offer to remove the charges (bringing the overdraft down to £1400) to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Santander UK Plc should carry out that settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 18 March 2024.

Sarita Taylor  
**Ombudsman**