

complaint

Mrs L complains that Santander UK Plc unfairly recorded information on her and Mr L's credit reference files (CRF), which affected their ability to secure further credit at competitive rates.

background

Mr and Mrs L had a joint 123 current account with Santander; Mr L also had a separate account with the bank.

In July 2015 Mr L informed Santander of a change of address. The bank updated his address details, but didn't change Mrs L's address details. When Mr L contacted Santander in August 2016 and failed the address security questions, the bank recognised that there was a problem with its records but it took no action.

In September 2016 Mr and Mrs L decided to switch their joint Santander current account to another provider. They had an overdrawn balance of some £400 on the account, which remained after the account switch on 15 September. On 23 September Mr L made an online payment to reduce the debit balance to the agreed overdraft limit of £300.

Santander kept the joint account open because of the outstanding balance and it pursued Mr and Mrs L for the debt. It did so by writing to Mrs L at the address it held for her on its records, although she had moved in July 2015. Santander warned Mrs L that the account overdraft facilities were about to be removed and it said that the debt must be repaid immediately. It also explained that Mrs L's CRF could be affected if she did nothing. The bank then recorded missed payment information on both Mr and Mrs L's CRFs and eventually transferred the debt to a debt collection agency.

In March 2017, the debt collection agency contacted Mrs L. Mrs L said that it was only then that she and her husband realised that there was a problem with the outstanding Santander debit balance and they repaid it immediately.

Over the following few months Mr and Mrs L made a number of applications to transfer their credit card balances, but their applications were declined. They also applied to re-mortgage their house, but that application was also refused. On checking their CRFs they discovered that their credit scores had been very significantly reduced by information reported by Santander about the outstanding debit balance.

Mrs L complained to the bank saying it had treated them unfairly by not informing them that there was a problem. She said that they would have repaid the debt immediately if they had been told this was necessary.

In its response Santander said it had made an error in not updating Mrs L's address in August 2016 and offered her £50. But it said Mrs L and her husband knew there was an outstanding balance after the account switch because they had made a payment to reduce it some days later. Santander said customers were responsible for monitoring their own accounts whether they received information from the bank or not. And the bank was required to report accurate information to credit reference agencies about how customers managed their accounts, which is what it had done in this case. It therefore said it wouldn't amend the information it had reported.

Mr and Mrs L complained to us.

After some discussions between Santander and our adjudicator the bank agreed to amend Mrs L's CRF. It said it would do so because it accepted that she wouldn't necessarily have known that both joint account holders separately had to notify a change of address. And it recognised it had made an error a year after Mr and Mrs L had moved when it identified that there was a problem with the address it had on file for the couple, but did nothing about it.

But the bank refused to amend Mr L's CRF. It said he knew there was an outstanding balance after the switch because he had made a payment to reduce it. It also noted that the outstanding balance would have been displayed clearly to Mr L when he accessed his remaining personal account online, which he had done many times since the account switch.

Our adjudicator considered that Santander had acted correctly in removing the adverse information it had recorded on Mrs L's CRF. He also considered it reasonable for the bank not to have taken the same action with respect to Mr L's CRF. He said that Mr L knew the account remained overdrawn after the switch, but had done nothing about it.

Mr L disagreed with the adjudicator's view. In summary, he said that although he knew about the outstanding balance he was unaware of the adverse consequences of not repaying it. And although the outstanding balance was apparent when he logged on to access his remaining account, there was no indication that this was a problem.

my provisional findings

I issued a provisional decision on Mr and Mrs L's account on 10 April 2018.

In that decision I noted that Santander's joint account terms and conditions stated that it would send all correspondence to only the first named account holder unless informed otherwise. In doing so it was therefore effectively saying that it was fulfilling its duties and responsibilities to both account holders by corresponding with just one. However it held both account holders equally responsible for the way the account was managed and for any debt.

Here Mrs L was the first named account holder and so Santander wrote to her about the remaining debit balance on the joint account following the switch. Those letters set out the consequences for Mrs L – and by implication Mr L – of taking no action. The bank accepted that it wrote to Mrs L, and consequently Mr L, at the wrong address. It also acknowledged that it couldn't reasonably have expected Mrs L to know that she had to tell the bank she had moved when her husband had apparently already done so on behalf of them both. In addition Santander said that it knew the address was wrong before Mr and Mrs L switched their account, but it took no action to correct it. Given those circumstances Santander concluded that it had acted unfairly in recording adverse information on Mrs L's CRF and had amended that information.

My view was that Santander had been right to do so and it was the action I would have recommended. But logically, and all other things being equal, I considered that Santander should also make the equivalent change to Mr L's CRF. I said this because in accepting that it hadn't communicated with Mrs L as it should have done about the outstanding debt, it necessarily hadn't communicated with Mr L either given the joint account terms and conditions about correspondence.

But Santander had argued that with respect to Mr L all things were not equal. Mr L knew about the outstanding balance after the switch and took no action to deal with it. He also failed to adhere to the account terms and conditions by not funding the account with £500 per month. For his part Mr L agreed that he knew about the balance, but didn't consider it to be a problem. He assumed the account could remain open with an outstanding balance after the switch even though it wasn't being used.

Having looked at the 123 account terms and conditions it was clear that the £500 monthly deposit was only a requirement if customers wanted to benefit from cashback and interest. It was entirely possible to operate the account without making that monthly payment. And so Mr and Mrs L weren't in breach of the account terms and conditions when they effectively left the account dormant after the switch, albeit with an outstanding balance. Given this I therefore considered the most important consideration to be that Santander hadn't communicated with Mr L about the need to repay the debt by virtue of the fact that it hadn't communicated with Mrs L. Santander had acknowledged shortcomings in the service it provided Mrs L and amended her CRF. My view was that it should make the equivalent changes to Mr L's CRF.

Mr and Mrs L had said that they missed out on cheaper credit deals because of the information recorded by Santander on their CRFs and had asked for compensation. But I didn't consider it reasonable to ask the bank to make any payment and explained why.

Mrs L had said she believed that her husband had paid off the overdraft or that it had switched to the new account, and that she was unaware that they owed Santander money. But although I didn't doubt what Mrs L had said, she and her husband were both jointly and severally liable for the debt and therefore treated as a single entity in considering what happened.

In making the account switch Mr and Mrs L had effectively closed the account because they made no further payments to it and all transactions moved to their new account. But they had an overdraft at the time of the switch, which I considered they should have known wouldn't switch to their new provider. Given this, it was my view that they should have spoken to Santander about what would happen to their debt after the switch. But they hadn't, and although they made a single payment to reduce the amount they owed, they seemed content to remain in debt on an account that to all intents and purposes was dormant. I thought it reasonable to expect them to have known that this position would ultimately be unsustainable and to have done something about it. And so my judgment was that as they were partly responsible for the position in which they subsequently found themselves, Santander should amend Mr L's CRF but not pay any compensation.

Subject to any further comments from Mr and Mrs L and Santander, my provisional decision was that the bank should amend Mr L's CRF.

response to my provisional decision

Neither Mr and Mrs L, or Santander has commented on my provisional decision. There is therefore nothing further for me to consider.

my final decision

I uphold Mr and Mrs L's complaint in part and direct Santander UK Plc to amend Mr L's credit reference file to remove the adverse information it recorded about the debit balance remaining on his joint 123 account following the account switch.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs L to accept or reject my decision before 4 June 2018.

June Brown
ombudsman