

complaint

Mr A is unhappy that Santander UK Plc has removed his overdraft facility on his bank account.

background

In January 2015, Mr A took out a Choice packaged bank account for a monthly fee of £10. The account had an arranged overdraft facility.

In May 2016, Mr A complained to Santander about arranged overdraft usage fees charged on the account. Mr A told the bank that he'd been out of the country due to a bereavement and so hadn't been monitoring his account. The bank responded in a letter dated 1 June 2016 and, in a gesture of goodwill, refunded the arranged overdraft fee and cancelled the pending fee due to be charged in June 2016. But Santander also pointed out to Mr A that through the course of 2016 he hadn't been regularly funding the account and that there hadn't been enough money in the account to fund the direct debits which had taken him over the overdraft limit. Santander encouraged Mr A to start funding the account in order to bring it back within the arranged limit.

Mr A says he called Santander shortly after receiving the letter to discuss his situation. He says that during the call he came to an agreement with Santander that he would make a payment at the end of June. But when he called Santander on 11 July to make a payment he says he was told that the overdraft had been cancelled. Mr A says he then made numerous attempts to call Santander to clarify what was going on but wasn't able to talk to anyone who could help.

I understand a debt recovery agency, Moorcroft, are now pursuing Mr A for the outstanding debt arising from the overdraft.

One of our investigators looked into this complaint and she thought Santander hadn't done anything wrong in removing the overdraft.

Mr A disagrees with this view and has asked for an ombudsman to review the case. So the complaint has been passed to me to consider.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The starting point is the terms and conditions. Paragraph 7.4 (b) under General Conditions for all overdrafts:

We have the right to change your Arranged Overdraft limit at any time. We can also require you to repay the whole or any part of your Arranged and/or Unarranged Overdraft at any time. We will usually give you 30 days' notice of our intention to change your Arranged Overdraft limit or repay the whole or any part of any overdraft, however we may do either of these things without advance notice to you where it would be reasonable for us to do so.

So, on the face of it, it seems that Santander had the right to require Mr A to repay the overdraft in accordance with the above terms. The issue is whether it acted fairly in doing so – bearing in mind its obligation to treat customers experiencing financial difficulties in a positive and sympathetic way.

Mr A maintains that he had come to an agreement with Santander about when he would bring his account back within the overdraft limit. He's says this agreement was reached over the phone on 2 June 2016. And so he says, in effect, that Santander was wrong to go back on what was agreed and that his overdraft should be reinstated.

There are a number of calls that took place between Mr A and Santander. But perhaps the most relevant ones are those made on 25 May and 2 June 2016. Santander has provided a recording of the first call and a summary of the second as it's not in an accessible format.

In the call made on 25 May 2016, Mr A explained his situation to the advisor who told him he'd gone over his overdraft. Mr A told the advisor he was returning to work on 1 June. The advisor offered to cancel outstanding direct debits on the account and put a halt on further charges. The advisor discussed various ways to manage the account given the account attracted arranged overdraft fees and offered to set up a monthly reducing overdraft to prevent any further charges. Mr A said he didn't want a monthly reducing overdraft and wanted to keep the account the same. He said he'd "*leave it as it is*" and would call at the end of June and make a payment then. The advisor explained to Mr A that if he didn't make payments, it could impact his credit file.

According to the call summary from 2 June, Mr A asked what his outstanding balance was and how much he'd need to pay to bring it within the overdraft limit. The sum was £87.96. He said he would pay £88 by the end of June. It might be that Mr A thought his promising to pay £88 was the 'agreement' that he has since talked about. But, even if that was the case, Mr A didn't make any payments at the end of June. And there's nothing else from the transcript or any other call evidence to suggest that any other repayment agreement was struck or that Santander agreed to hold off from removing Mr A's overdraft until he made a payment.

I've also considered the correspondence that was sent by Santander during this period which Mr A says he received. I've looked, in particular, at the letters from 30 May, 14 and 27 June 2016. In the letter dated 30 May, Santander warned Mr A about being in breach of the terms and conditions and of the need to repay the unarranged overdraft. It went on to say that if Mr A was experiencing difficulties managing his account it was here to help and to please get in contact. That approach was consistent with the offer subsequently made to Mr A over the phone to set up a monthly reducing overdraft which he declined.

In the letter dated 14 June, Santander warned Mr A that he was currently in breach of the terms and conditions and again asked for repayment of the unarranged overdraft. The letter went on to say:

"Failure to do so will result in further restrictions being applied to your account including the removal of any Arranged Overdraft facility...within 1 month of the date of this letter." Again, the letter made it clear that he could get assistance.

Similarly, in a letter dated 27 June, Santander told Mr A that failure to take action would result in cancellation of all facilities, including the removal of any Arranged Overdraft. They went on to invite Mr A to call them that day to discuss any potential difficulties he was experiencing.

But the next record I've seen of Mr A speaking to Santander wasn't until the 11 July. Whilst Mr A suggested in that call that he had a repayment agreement in place, the advisor said that he couldn't find any record of this. Mr A was also told about the possible impact on his credit file and that his banking facilities might be removed. And, according to a letter dated 18 July 2016, Mr A was then told the account overdraft had been cancelled.

Ultimately, it looks like Santander warned Mr A about the consequences of not repaying the unarranged part of his overdraft on several occasions over the phone and in correspondence. And I've not seen enough to make me think that Santander and Mr A had agreed to an alternative repayment plan.

What's more, on the information I've seen, I think Santander provided Mr A with several opportunities to discuss any financial difficulties he might have been experiencing in that period and did make offers to reduce his debt and charges. So I think it's fair to say that Santander treated Mr A positively and sympathetically in accordance with its obligations.

So, taking everything together, it's difficult to show that Santander acted unfairly in applying the terms and withdrawing the overdraft in these circumstances. And so I won't be asking them to do anything differently.

my final decision

For the reasons set out above, I don't uphold Mr A's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 24 April 2017.

Anthony Harrison
ombudsman