

complaint

Mr N has complained that Santander UK Plc ("Santander") didn't change his account from a fee-paid packaged bank account to a fee-free account when he requested it. Mr N has also complained that Santander has recorded a number of defaults on his credit file without giving him notice of its intention to do so.

background

The background to this complaint was set out in my provisional decision dated June 2018. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I set out why I was minded to uphold the complaint. I invited both parties to let me have any further comments and evidence. Mr N didn't have anything further to add and Santander made several comments, and provided a recording of a telephone call it had with Mr N during his complaint.

my findings

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

Santander raised the point that during his complaint Mr N said some paperwork was completed in the Santander branch when he asked to downgrade his account, but during the call with its complaint handler he said he didn't. Having listened to that call, I don't agree with that Santander has said. Mr N wasn't asked whether he completed any paperwork, but whether he signed any paperwork – which he said he didn't. So this doesn't make me think his testimony is any less plausible in that respect.

Santander also said that Mr N continued to use his online banking facility, and it has provided evidence of that, even after he asked to downgrade his account. So Santander says Mr N would've noticed his account hadn't changed, and that he'd have been able to see that his account was overdrawn from the overview screen after logging in.

I've noted that Mr N had a number of accounts with Santander, including business accounts. So that appears to be the reason he continued to use his online banking facility. And I know Santander has referred to the overview screen of its online banking system, which it says would've shown all of Mr N's accounts – and it says it would've shown the name of the Santander 123 account and its overdrawn balance.

Having looked at Santander's online banking demonstration on its website and I can see that customers have the option to rename accounts to anything of their choice. They also have the option to 'hide' accounts. So I can't say that by logging into online banking Mr N would've definitely seen his Santander 123 account at all, and even if he had, he might not have noticed its name hadn't changed if he had previously renamed it to something of his own choice.

Finally, Santander reiterated that it can't find any evidence of Mr N visiting a branch, such as any counter transactions or a chip and PIN verification. I accept that, but as I explained in my provisional decision, that doesn't persuade me that Mr N didn't visit the branch because he could've been identified in another way other than by chip and PIN.

I was to assure Santander that I've thought carefully about the additional comments and evidence that it provided. But for the reasons I've explained I haven't reached a different conclusion to the one I reached in my provisional decision. It follows that I uphold this complaint.

putting things right

Santander UK Plc to put Mr N in the position he'd be in now if it had downgraded his account when it should have. Santander has already refunded the account fees with interest so additionally it'll need to:

- Remove any adverse information recorded against Mr N's Santander 123 account with the credit reference agencies from June 2017 onwards
- Write to Mr N to let him know this has been done

I understand that this adverse information has impacted Mr N being able to apply for a mortgage. Santander should also recognise the trouble and upset this error has caused by paying Mr N £100 in compensation.

my final decision

For the reasons given above, and in my provisional decision, I uphold Mr N's complaint and require Santander UK Plc to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 24 August 2018.

Sam Wade
ombudsman

EXTRACT OF PROVISIONAL DECISION DATED JUNE 2018

complaint

Mr N has complained that Santander UK Plc ("Santander") didn't change his account from a fee-paid packaged bank account to a fee-free account when he requested it. Mr N has also complained that Santander has recorded a number of defaults on his credit file without giving him notice of its intention to do so.

background

Mr N opened a Santander 123 fee-paid account in August 2015. Mr N says he visited a Santander branch in June 2017 to request the account be changed to a fee-free account.

Mr N's account wasn't changed to a fee-free account in June 2017 and so the monthly account fee of £5 continued to be charged. This fee took Mr N's account into an unarranged overdraft and he was subsequently charged unarranged overdraft fees as a result.

Santander wrote to Mr N in October 2017 to let him know his account was in an unarranged overdraft. It wrote to Mr N again in November 2017 as the situation hadn't been rectified. It also looks as though around November 2017 Santander registered a number of defaults with the credit reference agencies because of the position Mr N's account was in.

Mr N has complained that Santander didn't downgrade his account in June 2017 when he requested, which caused his account to go into an unarranged overdraft. And he says that the letters Santander sent him in October and November 2017 didn't give him notice of its intention to report his account being over its agreed limit to the credit reference agencies.

Mr N says the adverse information recorded on his credit file is now having an impact on him being able to successfully obtain a mortgage.

One of our adjudicators didn't think that Santander had acted unfairly and didn't recommend that it needed to put anything right. Mr N didn't agree so he asked for an ombudsman to look at the complaint and make a final decision.

my provisional findings

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

Where evidence is incomplete and matters are in dispute, as they are here, I make my decision based on what I think is *most likely* to have happened – keeping in mind everything I've seen and been told.

After giving Mr N's complaint a lot of thought, I'm thinking of reaching a different outcome to our adjudicator. So I'm planning on telling Santander to put things right. I'll explain why.

I've noted that part of Mr N's complaint relates to the content of Santander's letters. But the first thing I've thought about is whether Santander should've downgraded Mr N's account in June 2017. After all, the account fee is what caused the bank charges and ultimately resulted in the letters being sent and the defaults being registered.

When Santander responded to Mr N's complaint it said that it doesn't have any record of Mr N visiting one of its branches in June 2017. So it says that it's not convinced Mr N did request to downgrade his account to a fee-free account when he says it did. So Santander says the account charges have been applied fairly, and the information it has given to the credit reference agencies is accurate.

I've thought carefully about what both Mr N and Santander have said. And I accept that from the evidence supplied, I can't categorically say that Mr N did visit a Santander branch in June 2017. But I've also thought about how Mr N said he made his request, along with his other account activity.

In the time that his account was open Mr N used it regularly. It looks as though he often used online banking to make transfers into and out of his account and he often transferred money into the account to cover debit transactions – such as debit card payments, direct debits, and the Santander 123 account fee.

I can see from evidence supplied by Santander that Mr N appears to have last accessed his online banking in May 2017 – at which time he cancelled some direct debits. He then says he visited the branch and gave a written request for his account to be downgraded. After this point, the account was no longer used and it doesn't look as though Mr N logged in to his online banking facility any more. And I can understand why – after all, if Mr N had cancelled all outgoing payments and requested for the account fee to stop debiting the account, there would've been no need for him to log in to online banking as his account balance shouldn't have changed. I can also see that after June 2017 Mr N no longer made electronic transfers into his account to cover the £5 monthly fee.

As I've already said, Mr N had been transferring funds into this account regularly, often matching the exact amount of the individual debit transactions. So I'm persuaded that Mr N kept a close eye on his finances and wouldn't have allowed his account to go overdrawn intentionally. And the fact that Mr N stopped crediting funds to cover the account fee at the same time as he says he requested to downgrade it persuades me that Mr N did indeed make that request in June 2017, and it wasn't done.

I'm mindful that Santander says it would have a record of Mr N visiting its branch and using his chip and PIN card to authorise the downgrade of his account, had he done so. But Mr N has explained that his request was done by filling in a form rather than by using his card. Whilst I accept that this may be unusual as Santander says most of its branch processes are done without paper forms, I don't think that means what Mr N has said is impossible. The circumstances surrounding the event lead me to believe that Mr N's testimony is plausible and wouldn't have happened by him being reckless or dishonest. And so on balance I think Mr N visited a Santander branch and requested to downgrade his account to a fee-free account, and for some reason this wasn't done.

I know that Mr N has complained about the content of Santander's letters sent in October and November 2017. Specifically, he's complaint that the letters didn't explain Santander's intention to report the unauthorised overdraft usage to the credit reference agencies.

But as Mr N has also explained he didn't receive those letters because he wasn't staying at his home address, I don't think the content of them has affected the course of events in this specific complaint. Even if the letters had been clearer, it doesn't seem as though Mr N would've read them, because he didn't have access to them. But if Santander had downgraded Mr N's account when it should have, the charges would never have been incurred and Santander would never have needed to send the letters in question anyway.

I want to reassure everyone that I've looked at all the information I have about this complaint. And I've thought carefully about everything both parties have said. And having done so I currently think Santander failed to act on an instruction and consequently caused detriment to Mr N's credit file.

I understand Santander has already refunded all of the charges it applied to Mr N's account as a result of not downgrading it, and the account is now closed. But I currently think Santander also needs to amend Mr N's credit file and remove the adverse information it has recorded.