

## complaint

Mr J complains that Santander UK Plc affected his credit score when it reported that his account was overdrawn for more than six months.

## background

Mr J says Santander notified the credit reference agencies (CRA) that his account had been overdrawn for six months and he says this is causing him problems. He told us:

- his bank account doesn't have an agreed overdraft limit, but he has the benefit of a £12 *buffer* and he says he was within his buffer for a year.
- he set up a new direct debit in September 2018 to pay his council tax, but then he changed his mind and decided to make his payment online. He says he cancelled the new direct debit mandate, but he didn't tell the bank and it then charged him £10 when the direct debit failed.
- Santander started to apply daily overdraft fees which he was unaware of until it wrote to him in December 2018.
- he contacted the bank and it agreed to waive the overdraft charges as long as he made a payment to bring his account up to date. And he says that although the bank told him it wouldn't report the situation to the CRA, it then reported that his account had been overdrawn for six months.
- he didn't know his account balance had exceeded his agreed buffer until December 2018 when Santander wrote to him and its not fair that the bank reported this to the CRA.

Santander rejected this complaint. It said that Mr J's account was overdrawn from January 2018 and Mr J would've been aware of this from his monthly account statements. It says there was a failed direct debit in September 2018 - and it wrote to Mr J to notify him of this - and fees were charged to his account in accordance with the account terms and conditions; an *unpaid item* fee and *unarranged overdraft* fees. The bank says when Mr J contacted it in December 2018, it agreed to refund most of the fees and charges as a gesture of goodwill and Mr J then cleared the remaining overdue balance. But it says it is obliged to report true and accurate data to the CRA. And as Mr J's account had an unauthorised overdraft for six months it is unable to amend or remove this reporting.

Our investigator looked at this complaint and said he didn't think it should be upheld. He explained how the balance on Mr J's account had accrued and that based on the call recordings he'd been able to listen to, he didn't think Santander had done anything wrong. The bank said it would refund some of the charges - and it had done so, but he couldn't find any evidence that the bank had told Mr J if he made a payment to bring his account up to date, it would make an amendment to his credit file.

Our investigator explained that the bank must report true and accurate information to CRA about how customers manage their finances. And although Mr J said he wasn't aware of his account balance, his regular account statements had been generated in the usual way and he couldn't hold the bank responsible for Mr J not viewing his statements and managing his account.

Mr J disagrees so the complaint comes to me to decide. Mr J says he set up and then cancelled the direct debit in the same month. He says he didn't exceed his £12 overdraft

buffer until September 2018 and he says the bank didn't notify him he had exceeded his account limit until December 2018.

### **my findings**

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 I have to tell Mr J that I think the investigator reached the right outcome here. And I think he set out the position very clearly in both his views, so there's very little I can usefully add to what's already been said.

In reaching my decision I've had the benefit of the Mr J's bank account records; Santander's account notes and system data; and several call recordings of telephone conversations between Mr J and bank representatives from December 2018. Disappointingly, a recording of a conversation that Mr J says took place in January 2019 is no longer available.

I have, however, seen copies of Mr J's online monthly account statements and these show that:

- following two small retail transactions in mid-February 2018, the account statement balance was -£8.21.
- there's no account activity over the next few months, but monthly online statements continue to be generated. And each one shows the account balance is -£8.21.
- on 3 September 2018, there's a failed direct debit payment – this is the mandate Mr J set up to pay his council tax. And although Mr J says he cancelled the direct debit later in the month, he didn't do this before the beneficiary tried to collect the payment. And the statement notifies Mr J that he'll be charged a £10 fee which will be debited in mid-October.
- the fee was charged to Mr J's account, taking the account balance to -£18.21 – which takes the overdraft beyond the £12 buffer on the account. This statement notified Mr J that he'll now incur *unarranged overdraft usage fees* which will be charged to his account the following month.
- the statements for November and December are similar – they confirm the additional fees that will be charged in the following period.

Mr J says this bank account wasn't his primary account and he didn't view the online statements – he wasn't aware of his account balance until Santander wrote to him in December 2018. But Santander has provided me with information from its computer systems that shows it sent Mr J regular email alerts. These alerts notified him that he had exceeded his authorised overdraft. And the email address it says it used is the same one that Mr J provided to this Service – so I'm satisfied that, on balance, he received them.

Taking all this into account, I'm satisfied that Mr J knew, or ought reasonably to have known, that he'd exceeded his authorised overdraft limit; the alerts should have prompted him to log in and review his account. And I can't hold Santander responsible for the fact that he chose not to look at his account. Santander generated the online monthly statements for Mr J to view. It was Mr J's responsibility to view his account statements, at least periodically, and then manage his account accordingly.

In any event, Santander agreed to waive the fees and charges as a gesture of goodwill when Mr J contacted it in December 2018. And it asked him to make a payment to bring the account up to date. Although only part of the call recording from 28 December 2018 is

available, I've seen the account statement for January 2019 and I can see the account fees were refunded and a £20 payment was received from Mr J, leaving the account with a small credit balance of just under £2.

Finally, I've looked at the matter of CRA reporting. I've seen no evidence that Santander gave any commitment about the reporting it would or wouldn't make to the CRA. At the point that the bank needed to notify the CRA about Mr J's overdraft, his account had been overdrawn for a period of six months or more. Our investigator explained that Santander is obliged to provide true and accurate reporting to the CRA, and I can't see that it hasn't done this – its reporting represents an accurate picture of the state of the overdraft at the time it updated the CRA. So I can't ask Santander to amend the credit file because I don't think it has done anything wrong.

I've noted Mr J's concerns that his credit rating has been affected and presumably he worries about the effect it may have on his ability to take out new credit. Mr J might be interested to know that he can place a 'Notice of Correction' on his credit records. The purpose of such a notice is to allow someone the opportunity to add any explanatory circumstances that they would like prospective lenders to take into consideration when making lending decisions. And if he wishes to do this, he should contact the credit reference agencies directly.

I know that Mr J will be disappointed by this decision and I appreciate the reasons why he brought his complaint to our service. But I'm satisfied that Santander didn't do anything wrong. I know this isn't the decision that Mr J was hoping for, but I hope he understands the reason I've reached this conclusion.

### **my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 18 March 2020.

Andrew Macnamara  
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