

complaint

Mr A complains that his credit file wrongly shows a default for an overdraft that he thought Santander UK plc had written off.

background

Mr A says there was fraud on his account. He says the bank gave him an overdraft while it investigated. It later paid back to him over £5,000 to cover fraudulent withdrawals but didn't withdraw the overdraft. Some years later he says the bank agreed to write off the overdraft debt as compensation for the fraud. It gave him a printout showing the account was cleared. He thought his credit file was wrong because it showed the overdraft as unpaid. He wants his credit file corrected to remove the debt.

The bank didn't agree. It said it'd provided Mr A with an overdraft while it investigated fraud on his account. This was to allow him to make normal payments. It said it repaid the money fraudulently taken but Mr A continued to use the overdraft. The copy print out was an internal document showing the account closed internally not that the debt was written off. He was sent over 20 letters advising of the debt and transfer to collection. The entry on the credit file was correct and couldn't be removed.

The adjudicator didn't uphold the complaint. He said the money fraudulently taken was refunded to Mr A and he was paid compensation in addition. Mr A continued to use the overdraft after that time. He thought the print out showed the debt was sent for collection. The bank had no record of agreeing to write off the debt which he would've expected for such a large amount. He thought it was reasonable for the bank to continue to chase Mr A for the debt and to provide information to the credit reference agencies.

Mr A didn't agree. He said the copy print out showed the debt was cleared. He didn't think the bank had ever compensated him for the impact of the fraud. He thought the amounts he was paid were to reverse bank charges and for penalties he suffered due to direct debits that were stopped at the time, not compensation. He'd never agreed to the overdraft on the account so shouldn't be liable for it.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. While I am sorry to disappoint Mr A I agree with the adjudicator for much the same reasons.

I can see from copy statements that the bank paid over £5,000 into Mr A's account to redress the fraud. I can also see credits of over £100 and a later payment of over £160 which the bank says were for compensation, charges and interest. So I think the bank did pay Mr A compensation for its handling of the fraud.

I can also see Mr A withdrew a large sum on the same day the bank paid him back for the fraudulent withdrawals. This meant the account moved into credit and then back into an overdrawn position. I can also see that Mr A continued to use the account for normal transactions and that with time his overdraft increased and at times exceeded its limit. I can also see from the bank's notes that it discussed this with Mr A 2011 when he agreed to take steps to reduce the overdraft. I am satisfied that Mr A was aware of and happy to use his overdraft over several years. So I don't think it matters that Mr A didn't ask for the overdraft.

As to the copy print out, banks show an account balance in this way when it is sent for collection. So I don't think the print out is evidence that the bank agreed to write off the debt. Although Mr A says the bank told him the debt was written off I haven't seen any other evidence of this. Given the size of the write off I would've expected to see this reflected in letters from the bank and or in the bank's notes. So I don't think the bank did write off the debt.

Even if Mr A had the wrong impression of a conversation with the bank I think he should reasonably have known the debt was outstanding. I say this because the bank statements show the account was sent to collection. The bank has shown me copies of the letters it would've sent to Mr A about the debt. Although I haven't seen the actual letters I have seen examples and I think the bank did send the letters. I can't explain why Mr A says he didn't receive them but I think they were sent and note the bank had his current address on file at the time.

I am satisfied that the bank didn't agree to write off the debt and the entry of Mr A's credit record is appropriate.

my final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 March 2016.

Colette Bewley
ombudsman