

complaint

Mr B complains about the way The Co-operative Bank Plc ("Co-op") handled his overdrawn current account.

background

Mr B had a current account with no overdraft. But in mid 2017 he went overdrawn and for the next eight months, his debt increased because of service charges and interest. In late 2017 Mr B complained to Co-op that he couldn't repay. Co-op tried unsuccessfully to call Mr B and then wrote to him. They offered to refund the service charges on the condition Mr B paid off his overdraft within the next month. They told Mr B to contact them if he had any problems with this.

Mr B didn't make any payments. So, the interest and service charges resumed. Co-op wrote to Mr B again asking him to repay but he didn't. Four months later Co-op defaulted the account. They again asked Mr B to repay the balance, but he didn't. Months later, Co-op decided not to pursue him for the debt.

Mr B later noted his account was showing as settled with one credit reference agency ("the agency/agencies") but as an amount outstanding with others. Mr B sent Co-op several emails asking about this, some of which were to the complaints department. In them Mr B said he'd complain if they didn't respond. Co-op then confirmed to Mr B the account was closed. Mr B wasn't happy with this response and he complained to us. In particular, he said:

1. Co-op had refused to record his complaint.
2. Co-op hadn't given the agencies correct information, that his account should show as settled and shouldn't be defaulted.
3. He wasn't given enough time to pay off his debt, considering his low income.
4. The charges on his account weren't fair, Co-op should have waived all of the costs including his original debt.

We shared his complaint with Co-op and asked them to respond. Co-op told us they'd already investigated the charges on Mr B's account as part of a previous complaint. They said they had no record of a complaint from Mr B about the other issues, just an enquiry about whether his account was closed.

Co-op investigated and told Mr B they'd sent the same information to all the agencies. Co-op said his account had defaulted and this couldn't be changed. But they agreed to tell the agencies to show the debt as settled. Co-op also said the account charges were fair but noted they'd made a mistake when refunding them. They told Mr B he was incorrectly charged fees in the month after the service charge refund. They upheld this part of the complaint.

Mr B then asked us to look at his concerns. Mr B felt that if Co-op had said they didn't want the debt, then it shouldn't be defaulted. He also complained about the refund mistake, suggesting that because of this Co-op should have written off his debt. Our investigator found Co-op had acted fairly and didn't uphold the complaint. Mr B remained unhappy. So, matters have been passed to me to decide.

my findings

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

Co-op told us they'd already investigated Mr B's complaint about the fairness of the charges on his account. Because of the issues this raises in terms of my power to deal with that concern, I've covered this in a separate decision and won't be commenting further on it here.

I think the root of Mr B's other complaints is the default on his account, so I looked at this first. A default happens when someone fails to meet their financial obligations. Mr B's debt defaulted one year after he went into an unarranged overdraft. During that time Mr B never made a payment. The terms of conditions of Mr B's account stated that failure to repay an unarranged overdraft was a breach of these conditions. So, it's clear Mr B didn't meet his financial obligations.

But Mr B told us he wasn't given enough time to pay off his debt given his low income. Where a business is aware a customer is struggling financially, I would expect them to do what they can to help. There are no set rules on what is required, but I'd expect them to try to understand the difficulties so that they can work out what a customer could afford and what might help their circumstances. I note that when Mr B reported his financial problems, Co-op waived service charges, reducing his debt. I'm aware Co-op also tried to call Mr B to discuss his concerns and gave him a number to contact if there were any problems. So overall, I'm satisfied Co-op took reasonable steps to support Mr B. They then gave him another four months before defaulting the account. This is clearly long enough for Mr B to make a payment or to contact them if he was having difficulties. But Mr B didn't do either. Given this, I'm satisfied Co-op gave Mr B enough time to repay his debt.

I did consider whether Co-op should have realised earlier that Mr B was having financial difficulties. And I noted there were eight months when Mr B was making no repayments. But even if Co-op had got in contact with Mr B sooner, I can't say that this would have made any difference. Because Mr B still didn't make any repayments even when Co-op took steps to help. For the same reasons, I can't say any mistakes with the goodwill refund would have made any difference as Mr B never made any attempt to pay the debt, regardless of its size.

Mr B felt that because Co-op had made errors with his refund, they should have written off his debt. But I don't think there was any mistake with Co-op's refund – I'll explain why. In 2017 Co-op agreed to refund the service charges. But they knew Mr B would be charged the month they'd given him to repay, and so they refunded him for an extra month. So, whilst his statements show a charge that month, they'd already accounted for it. In their most recent response to Mr B, Co-op have mistakenly suggested the refund was for interest as well – their response letter shows it wasn't. So, I'm satisfied Co-op didn't do anything wrong here.

For all of these reasons, I think it was fair that Co-op defaulted the account.

I've then considered Mr B's concerns about the agencies. Co-op have told us that they gave all agencies the same information and that it was accurate. But Mr B thought Co-op gave out different information. And I can understand why Mr B might think this because it's clear one agency was showing the account status differently. But each agency will interpret the information they're given and then display it in their own way - so differences in their reports aren't uncommon. And whilst I recognise banks can make reporting errors, I think it's less

likely that Co-op would make this mistake with one agency but not with the others. So, on balance, I think the differences in the reports were down to interpretation by the agencies, not because Co-op gave them different information.

Mr B also wasn't happy with what had been reported to the agencies. Mr B felt that because Co-op have written the debt off, it wasn't fair to show the account as defaulted. But Co-op only decided to stop pursuing him for the money after the account defaulted. Whether a business pursues defaulted debt doesn't change the fact a default happened. Co-op also have a responsibility under legislation to report defaults accurately. So, I don't think they've done anything wrong here either. Mr B felt the account should show as settled instead. And I'm aware Co-op have now agreed to tell the agencies to show the balance as settled in addition to the default. But defaulted debt, by its definition, isn't settled. So, I can see why this has caused Mr B some confusion. For the reasons I've already given, I can't say Co-op should report the debt as settled - it wasn't paid off and it did default.

Finally, I've thought about whether Co-op should have recorded Mr B's complaint earlier. I reviewed the emails and Mr B was clearly unhappy. Mr B wanted to understand why his account wasn't showing as closed with the agencies. Mr B doesn't mention any of his other concerns. Mr B does contact the complaints department, but his message says he will complain if they don't close his account. Co-op later confirmed his account was closed. So, I don't think it's clear from Mr B's emails that he was making a complaint. And I don't think Co-op did anything wrong here.

my final decision

For the reasons I've given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 March 2020.

Jade Cunningham
ombudsman