

The complaint

Mr C complains Santander UK plc (Santander) unfairly defaulted his bank account following fraudulent activity.

What happened

Mr C says during 2017 and 2018 his bank account with Santander and two other providers were subjected to fraudulent transactions. Mr C says despite what Santander says his bank account shouldn't have been overdrawn as a result of these fraudulent transactions and it has unfairly defaulted his account and he has had a poor credit mark on his credit file as a result, for several years.

Mr C wants Santander to apologise and remove the default from his credit file.

Santander says it had credited Mr C's account with refunds of the fraudulent transactions on his bank account in October 2017, but as the merchant had also refunded Mr C it re-debited these sums in November 2017 which created the overdraft on his account. Santander says it wrote to Mr C about this matter several times between November 2017 and January 2018 but as no corrective action was taken by him, it defaulted his bank account and passed it to a debt collection agency in March 2018. Santander are unable to agree an error has occurred.

Mr C wasn't happy with Santander's response and referred the matter to this service.

The investigator looked at all the available information but didn't uphold the complaint. The investigator felt Santander acted fairly when it debited Mr C's bank account for the refunds it had made, and this is clear under its terms and conditions. The investigator says Santander had contacted Mr C regarding the unarranged overdraft and when this wasn't corrected it was reasonable for it to have applied a default when it did. The investigator says as Santander haven't made any errors here she couldn't ask it to remove the default from his credit file.

Mr C didn't agree with the investigator's view and asked for the matter to be referred to an ombudsman for a final decision.

What I've decided – and why

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 won't be upholding this complaint and I will explain how I have come to my decision.

I can understand it would have been upsetting for Mr C to have his bank account defaulted. When looking at this complaint I will consider if Santander acted reasonably when it defaulted Mr C's bank account in March 2018 and passed the account to debt collection agents.

Both parties are aware of the background to this complaint, so I won't repeat everything that's already been said. Mr C says Santander shouldn't have defaulted his bank account in March 2018 as the cause of the debt relates to fraudulent transactions on his bank account and not of his making.

While I understand the points Mr C makes here I'm not fully persuaded by his argument. I say this as I can only rely on the evidence provided here and it's worth noting this issue dates back around six years ago. What is clear is Santander have confirmed that the debt created on his account was due to the fact it had previously credited Mr C's bank account with some fraudulent transactions but given it had been informed these had also been credited by the merchant, it had to re-debit the account to prevent doubling the refunds. So, with that in mind I'm satisfied Santander knowing this acted reasonably here and in line with the account terms and conditions.

In these circumstances I would expect Santander to write to Mr C to advise of the overdraft position and what actions it may then take. Here I have seen evidence to show Santander wrote to Mr C several times between November 2017 and January 2018 advising him of the status of his bank account and their intention to default the account if he didn't contact them.

While Mr C says he tried to contact Santander about this, I haven't seen anything to support that, so all I can say here is in all probability Santander weren't contacted by Mr C to discuss this or to put in place any form of repayment plan – without which it's reasonable to say it would carry out the default, as it told Mr C it would. So, with that in mind I can't say Santander have acted unreasonably here.

Having said that, as I mentioned earlier the default was registered in early March 2018 so as six years have elapsed this should now automatically fall off Mr C's credit file – which is of course his main concern. Mr C may wish to contact the relevant credit reference agencies here to check this has been actioned. While Mr C will be disappointed with my decision, I won't be asking anymore of Santander here.

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 C to accept or reject my decision before 9 April 2024.

Barry White
Ombudsman