

The complaint

Mr F complains that Santander UK Plc defaulted his account and passed it to a debt collection agency without his knowledge.

What happened

Mr F says that in July 2023 he lost access to his Santander mobile banking app due to a faulty mobile phone handset which needed to be replaced. When he regained access to the app – in October 2023, Mr F says he found his current account wasn't showing in the app. He contacted Santander and was told his current account had been defaulted and the account passed to a debt collection agency because an outstanding balance had not been repaid.

Mr F says he had no knowledge that his account had gone over the overdraft limit as he hadn't undertaken any transactions on the account. Nor was he aware that Santander had taken the action it had as he didn't receive any communication from it. So, he complained to Santander as he found out his credit file had been adversely affected.

Santander responded to Mr F's complaint, but it didn't think it had made a mistake. It said that the outstanding balance on Mr F's Everyday current account had been carried forward from when the account had been a student account in 2021. And that its collections department had tried to contact Mr F via various communication channels without receiving a response before it defaulted the account and passed the debt to a collection agency. It also said that during a telephone call Mr F had said he was aware of the outstanding balance so it thought Mr F could have acted sooner to put things right. Unhappy with the response, Mr F referred the complaint to this service.

One of investigators looked into it. But she didn't think Santander had done anything wrong. She said she'd seen evidence that Santander had written to Mr F on several occasions to let him know that: his overdraft had been removed; the balance outstanding; and the action it would take if Mr F didn't repay the outstanding balance. So, she said Mr F had the opportunity to act before Santander defaulted the account.

Mr F didn't agree with the outcome. He said that evidence of Santander sending a letter isn't evidence it was received. And he questioned why Santander didn't contact him by email when it has sent important information about his account via email previously. He added that the default on his credit file isn't a true reflection of his financial situation as he has a significant balance in the ISA. And he asked why Santander didn't take the money from his ISA before defaulting the current account.

As Mr F didn't accept the outcome reached by the investigator, his complaint has been passed to me to reach 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've reached the same overall conclusion as the investigator. I know Mr F will be disappointed as I can see he feels stronger that Santander has treated him unfairly. So, I'll explain why.

Santander has provided evidence to show that by August 2023 Mr F's Everyday current account had been in constant overdraft since 2021 – when the account was converted from a student account.

I note that Mr F has said that the last communication he had from Santander was in 2022. But Santander has provided evidence that it sent letters and emails to Mr F in early 2023 when his account exceeded the overdraft limit. And I've seen – from the transaction history on Mr F's account, on each occasion Mr F transferred sufficient funds into the account via faster payment to put the account back within the overdraft limit.

So, I'm persuaded that Mr F did receive communication from Santander about the account in 2023. And I'm satisfied that Mr F was aware that he had an outstanding balance with Santander and how close he was to the overdraft limit.

When Mr F made the above-mentioned transfers, I think he would also have been aware that the amount of the transfers were only sufficient to bring the account just within the overdraft facility. So, I also think Mr F ought reasonably to have known that his account would most likely exceed the overdraft limit again the next time an interest charge was applied – which is what happened. As such, I find Mr F had the opportunity at this point to prevent the account exceeding the overdraft limit again.

In any event, when Mr F's account did exceed the overdraft limit again, Santander's records show that arrears emails were sent to Mr F in June and July 2023 – like what it had done previously. And from what Mr F has said I think its most likely he still had access to the mobile banking app in at least June 2023. So - on balance, I think its most likely Mr F was aware of the account status on this occasion too.

But Santander's records show that - on this occasion, Mr F didn't go on to adjust the account balance. I appreciate the account exceeded the overdraft by a small amount and it was the result of interest being charged on the overdraft balance. But given the account had been consistently overdrawn for several years; this wasn't the first time the account had exceeded the overdraft in a short space of time, and Santander is entitled to charge interest when an account is overdrawn, I don't think Santander did anything wrong when it removed the overdraft limit and issued a default notice on Mr F's account when he didn't adjust the account balance.

Santander has provided a copy of the default notice dated 10 August 2023. The default notice sets out that Mr F had 14 days to clear the outstanding balance to prevent any further action being taken. And what action would be taken if the balance wasn't repaid.

But Mr F says he didn't get the default notice, so he wasn't aware of the action Santander intended to take. But I've seen that the default notice was addressed correctly – the same address as this service holds. And I've no reason to dispute that it was sent. I accept its possible Mr F didn't receive it, but I can't hold Santander responsible for correctly addressed mail not being safely delivered.

In any event, the terms of Mr F's account and previous emails sent to Mr F set out the action that might be taken if an account in overdraft is not appropriately managed. And

as mentioned above, I've found that Mr F should have been reasonably been aware that his account was over the overdraft limit from June 2023 – when Santander emailed him and before he lost access to the mobile app. So, I'm persuaded that Mr F could have acted before Santander issued the default notice – particularly as this is what he's done on previous occasions, and he had the means to do so.

I thought about whether Santander should have transferred the funds to repay the overdraft from Mr F's ISA. But from what I've seen Mr F's ISA was a 'Help to buy ISA' and whilst withdrawals are allowed, any withdrawals will impact on the bonus payment due at the end of the term. So, I'm not persuaded Santander should have automatically transferred money from Mr F's ISA without his authorisation. But Mr F could have chosen to transfer the funds to clear the overdraft had he wanted to.

The Information Commissioner's Office gives guidance on the registration of defaults and says a default should be registered between three and six months of arrears. As Mr F's account was overdrawn for three months by the time the default notice expired, I'm satisfied that Santander didn't treat Mr F unfairly when it defaulted the account.

Santander is obliged to record true and accurate information with the credit reference agencies. I appreciate Mr F has said the default on his credit file isn't a true representation of his overall finances as he held money in another account. But the default is recorded against his current account, so I'm satisfied his credit file provides accurate information about Mr F's current account. And Mr F's account terms and conditions make provision for a debt to be passed to a collection agency. So, I'm also satisfied that Santander didn't act unfairly when Mr F's account was passed to a debt collection agency.

Taking everything into account, I don't think Santander has acted unreasonably given all the circumstances of this complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 17 May 2024.

Sandra Greene
Ombudsman