

The complaint

Mr L complains that Santander UK Plc have unfairly registered a default with the credit reference agencies (CRA's).

What happened

Mr L had a bank account with Santander which was overdrawn, but he found out that they had passed his account to a debt management company (DMC) and registered a default with the CRA's. He says he was unaware Santander had sent him letters as he was travelling at the time, and they didn't attempt to communicate with him via other methods, and as such he believes they breached their terms and conditions. Mr L made a complaint to Santander.

Santander did not uphold Mr L's complaint. They said his account had become dormant due to no account movements. They said they issued him letters to confirm this and asked him to credit the account or facilities may start being restricted on the account.. As they didn't receive a response from Mr L they removed the facilities from the account including his arranged overdraft which left him in arrears. Santander said they issued numerous letters to advise him about the arrears and to contact them to set up an arrangement to clear these. As they had no response from Mr L they applied a default, as per their process. Mr L brought his complaint to our service.

Our investigator did not uphold Mr L's complaint. She said Santander wrote to Mr L twice in August 2021, asking him to pay into his account to avoid his arranged overdraft being removed, but no payments were made so they removed the overdraft facility in October 2021, which their terms and conditions explain they may do this. As Mr L was in an unarranged overdraft, Santander asked him to make a payment to clear this in October, November and December 2021, and they explained they may report a default to the CRA's and pass Mr L's account to a DMC if he didn't take action, but no payment was made so they defaulted his account in January 2022 and passed the account to a DMC in February 2022. She said while Mr L said he didn't get Santander's letters as he was abroad, Santander followed their collections process in sending the required letters by post.

Mr L asked for an ombudsman to review his complaint. He made a number of points. In summary, he went into great detail about his health, he said he had always received important notifications from Santander by text message (and sent us a screenshot of texts from Santander) and he detailed his personal circumstances (including his background), showing that he had the money to pay off the overdraft at the time, but he wasn't aware of the collections position of the account until it was passed to a DMC, and he immediately repaid the debt when he knew about it.

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.

Mr L has made a number of points to this service and I've considered and read everything

he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here. While Mr L has told us a lot of information about his health and background as part of this complaint, I won't be going into detail about this in my decision to help protect his identity, but I can assure him I have read everything he's sent to us.

Santander's terms and condition show that "*Overdrafts are repayable on demand. Subject to the Consumer Credit Act, if we do decide to remove or reduce your overdraft limit we will normally give you 30 days' personal notification of our intention.*" Santander wrote to Mr L on 2 August and 24 August 2021 to inform him that his regular credits into the account had stopped and the amount of his arranged overdraft limit is partially based on how much he paid into his account each month. They said to make sure this isn't removed in the future he needed to start making regular credits to his account. But Mr L's account activity showed his last credit into the account was in April 2021, and no further credits were made after the letters Santander sent him.

Santander then wrote to Mr L on 23 October 2021. This letter showed his arranged overdraft was now £0, and he was in an unarranged overdraft. The letter showed how he could make a payment to clear the overdraft, but if he couldn't pay, then to contact them. They followed this letter with another letter dated 11 November 2021, which mentioned they may need to pass his account to a DMC and inform the CRA's that he defaulted on his account if they didn't pay his arrears or contact them. A similar letter was sent on 2 December 2021 and 13 December 2021.

But as Santander hadn't heard from Mr L and his arrears weren't cleared, they issued him a default notice dated 24 December 2021. This told Mr L he had 14 days to pay the overdue amount. But since Mr L didn't make a payment within the required timeframe, Santander registered a default with the CRA's.

I've considered what Mr L has said about Santander not trying to contact him via alternative methods. But Santander are required by the regulator, the Financial Conduct Authority to send certain documents via post, regardless of what preferred communication method a customer may have. So here, Santander sent Mr L several letters about the position of his account and then a default notice to him. And it would be Mr L's responsibility to ensure that Santander have up to date information for him. Santander would not be required to send these types of communication by email or text message. So I can't say that they have done anything wrong by not trying to contact Mr L via alternative methods.

I've considered what Mr L has said about Santander sending him texts before. The texts Santander have previously sent him are related to their alerts service. Santander have told us there are three alerts set up on his account. These are alerts that Santander would send him when either a high value debit occurs on his account, when his account balance falls below a certain amount and when his account balance was close to his overdraft limit. But here, Mr L's balance didn't change from prior to the collections process beginning to the time the default had registered. Even the removal of the arranged overdraft didn't change his balance as Mr L owed Santander £1,898.46 when he was in an arranged overdraft, and the same amount when he was in an unarranged overdraft. So Santander wouldn't have sent Mr L an alert regarding the collections process as sending a letter here would be their normal process.

I'm satisfied that Mr L was abroad at the time and that's why he didn't receive the letters. But in order for me to ask Santander to remove the default, I'd need to be satisfied they made an error in registering the default. But Santander have not made an error here as they did not receive a payment or contact from Mr L in line with the letters they sent. So I'm unable to ask Santander to remove the default.

I'm aware that Mr L has made the payment as soon as he was aware of the status of the account. So Mr L may wish to consider registering a "*notice of correction*" with the CRA's to explain what happened here. This is a short explanatory note that he can add to an entry on his credit file, to explain the background to that entry. So anyone who searches his credit report, would see the notice of correction and take the notice into account if they viewed his credit file. Prospective lenders will each consider a notice like this differently and it isn't a guarantee that they will put the underlying payment information to one side. But given how strongly Mr L feels here - it is an option that is open to him. He would need to contact the CRA's to do this. But as Santander are obliged to report the default to the CRA's, it follows I don't require Santander to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 11 September 2023.

Gregory Sloanes
Ombudsman