

## **The complaint**

Mr T complains that Santander UK Plc unfairly closed his business account.

## **What happened**

Mr T had a business account with Santander, which he used to run his business, E.

In November 2022, following a review Santander decided to close the account. Santander wrote to Mr T giving him two months' notice that he needed to make alternative banking arrangements for E.

Mr T complained to Santander about the closure of the account and asked Santander to explain why it no longer wanted him as a customer. Mr T said he suspected Santander's decision was based on out of date information about him in the media and because he had a previous spent conviction. All of which had occurred many years ago. He said if this is the reason Santander closed his business account it is discriminatory and a breach of the Rehabilitation of Offenders Act 1974. In response, Santander didn't provide Mr T with much information. The bank said it hadn't done anything wrong and had acted in line with the terms of the account and relevant regulations when it had closed the account.

Mr T wasn't happy with the bank's response and brought his complaint to this service. He said Santander had treated him unfairly based on what had happened many years ago. He said Santander's actions had caused him a great deal of trouble and upset and impacted his business, which he says had to cease trading.

One of our investigators reviewed the complaint. She said that Santander hadn't done anything wrong when it had closed the account and had closed it in line with the terms and conditions of the account. Mr T disagreed. He said Santander has broken the law because he believes the bank closed the account based on old information about him and because he has a spent conviction. He said Santander is a discriminatory organisation and there is no point in him bringing his complaint to us as this service doesn't work on behalf of consumers.

As no agreement could be reached the matter has come to me to decide.

## **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.

I appreciate Mr T was disappointed by the investigator's opinion and I can see that he has provided a detailed response to what she said about his complaint. I'd like to reassure Mr T that I've considered the whole file and what's he's said. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome. No discourtesy is intended by me in taking this

approach. I do stress however that I've considered everything that Mr T and Santander have said before reaching my decision.

Firstly, in response to the investigator's view, Mr T has said he is concerned that this service doesn't work on behalf of consumers because the investigator didn't uphold his complaint – with the implication being that the bank is influencing our conclusions inappropriately. Whilst I do recognise his concern, as an ombudsman service our approach is to consider what both parties say and then reach our own independent conclusions on that evidence. That is what we have done in this complaint. If Mr T does not agree with our view, he does not have to accept it, and if he does not accept this final decision, he will be free to continue to pursue his concerns by other means should he wish to do so. I cannot, however, advise him on how to go about doing that.

Mr T suspects that Santander has not taken account of the Rehabilitation of Offenders Act 1974 when it closed his business account – in other words he says it has broken the law. Our service is an informal alternative to the courts. It is not the role of the Financial Ombudsman Service to decide whether the business has acted unlawfully or not – that's a matter for the courts. I can't make a finding as to whether the law has been broken, and I don't need to in order to decide this complaint. So, whilst the law is a relevant consideration, we don't look at complaints in the same way a court might. We're able to reach an outcome based on what we believe to be fair and reasonable in all the circumstances.

Santander are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations when providing account services to customers. They can broadly be summarised as a responsibility to protect persons from financial harm, and to prevent and detect financial crime.

In order to comply with its legal and regulatory obligations, it's not unusual for a financial business to periodically review its customers' accounts, even if the account holder has been a customer for some time. Having looked at all the evidence and information, I'm satisfied that Santander were complying with their legal and regulatory obligations when they reviewed Mr T's business account. So, I can't fairly say they've done anything wrong.

Following a review, banks sometimes decide to close an account. Banks are entitled to decide for themselves whether to do business or continue doing business with a customer. Each financial institution has its own criteria and risk assessment for deciding whether to continue providing accounts and providing an account to a customer is a commercial decision that a financial institution is entitled to take. That's because it has the commercial freedom to decide who it wants as a customer. And unless there's a good reason to do so, this service won't usually say that a bank must keep a customer. But they shouldn't decline to continue providing an account without proper reason, for instance of unfair bias or unlawful discrimination. And they must treat new and existing customers fairly.

Before Santander closes an account, they must do so in way which is fair and complies with the terms and conditions of the account. I've looked at the terms and conditions and they state that Santander could close the account by giving at least two months' notice. I've seen the notice to close letter that Santander sent Mr T in November 2022, giving him the full notice period, so I'm satisfied that they have complied with this part.

I've then gone on to consider whether Santander's reason for closing the account was fair. In doing so, I appreciate that Santander are entitled to set their own policies and part of that will form their risk criteria. It is not in my remit to say what policies or risk appetite Santander should have in place. I can however, while considering the circumstances of individual complaints, decide whether I think customers have been treated fairly.

I've considered carefully what Mr T has said regarding his spent conviction and the Rehabilitation of Offenders' Act 1974. Mr T has explained that he got mixed up in something more than a decade ago and received a suspended prison sentence as a result. He's also said that the matter was reported in the media at the time. Mr T says it would be a breach of the Rehabilitation of Offenders Act 1974 if Santander's decision to close his business account was based on his previous spent conviction. He says it would also be unfair for Santander to base its decision to close the account on out of date media stories about him.

After considering all the available evidence and information I haven't seen any evidence to show Santander's decision breached the Rehabilitation of Offenders Act 1974 or that Santander reviewed and closed Mr T's account for an improper reason. There's nothing that I've seen, that suggests it amounted to anything other than a legitimate exercise of its discretion. It follows then that I've not seen any evidence that would lead me to conclude Santander treated Mr T differently because of his previous spent conviction and what was reported in the news. The reason Santander gave for closing the account is that it was outside the bank's risk appetite. That in turn means it can choose who it has a customer relationship with. This is a decision that I can't interfere with as it is a commercial business decision.

I understand of course why Mr T wants to know the exact reasons behind Santander's decision, other than what he's been previously been told. And I can see that Mr T has asked Santander to explain itself on several occasions. I appreciate it can't be pleasant being told that you are no longer wanted as a customer. But Santander doesn't disclose to its customers what triggers a review of their accounts. And it's under no obligation to tell Mr T the reasons behind the account review and closure, as much as he'd like to know. So, I can't say it's done anything wrong by not giving Mr T this information. And it wouldn't be appropriate for me to require it to do so.

In summary, I understand Mr T will be unhappy with my decision but ultimately Santander is entitled to set its own risk appetite. Having reviewed all the evidence and circumstances of this complaint, I'm satisfied that Santander has acted in line with the terms and conditions of the account and as such I can't conclude that it has treated Mr T unfairly when it closed his business account. So, I won't be asking Santander to reopen the account.

### **My final decision**

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 9 January 2024.

Sharon Kerrison  
**Ombudsman**