

## **The complaint**

Mr P complains about charges Santander UK Plc has applied to his credit card account.

## **What happened**

Mr P complained to Santander about charges applied to his credit card for cash transactions. Santander said the fees and charges had been applied correctly and in line with the terms of the card. The fees were noted on Mr P's monthly credit card statements since he took it out in 2014.

Mr P brought his complaint to our service. He said he didn't think it was fair that Santander was charging him more for withdrawing cash than if he was using it to make purchases directly. He said in his line of work, most purchases were made by cash and Santander was aware of this when he took out the card. He believed Santander's charges weren't proportionate. He was being charged £3 for a £5 cash transaction which worked out to be 60%. At times he was going over his credit limit because of the fees and he'd incurred extra charges because of this. He believed it amounted to unfair treatment and an unfair contract.

Our investigator looked into Mr P's concerns but didn't think his complaint should be upheld. He thought the fees and charges had been applied fairly and in line with the terms and conditions of the account.

Mr P disagreed with our investigator's opinion, so his complaint has been passed to me.

## **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 P previously complained to Santander about charges on fees on his credit card in 2017. Santander issued a final response letter in relation to this in December 2017, giving Mr P six months to refer his complaint to our service. I understand Mr P didn't refer his earlier complaint to us, so I won't be able to consider any charges that had already been considered as part of it.

Mr P believes the fees and charges Santander has applied to his account are unfair. He's particularly unhappy that Santander charges him more for using his card for cash transactions than if he was using it for purchasing goods or services. He also thinks it's unfair that he's been charged an over limit fee on occasions when these charges have resulted in him exceeding his credit card limit. Mr P says legislation means that the fees amount to unfair treatment and an unfair contract. He's referred to the Unfair Contract Terms Act 1977.

Unfair terms are now covered by more recent legislation - the Consumer Rights Act 2015. This act makes it easier for consumers to challenge hidden fees and charges. They can be assessed for fairness, unless they are both prominent and transparent.

I've considered Mr P's points. But I don't think this legislation is relevant to his complaint. I say this because I think Santander has given Mr P clear information about the fees and charges applying to his account.

I've seen a copy of the agreement Mr P signed when he took out his credit card. This sets out the fees that could be charged on the account. It shows a "*Cash Transactions Fee*" of "*3% (minimum £3)*". It also lists the fees for breaking the agreement including "*Over Limit Fee (if you are over your Credit Limit when your statement is produced)*" of "*£12*". This information is also showing on Mr P's credit card statements.

In its response to Mr P's previous complaint about fees and charges (dated December 2017), Santander referred him to the terms and conditions of the account and highlighted that what's considered to be a cash transaction includes "*any use made for gambling including internet gambling and purchase of lottery tickets*".

So, I'm satisfied that Mr P is aware of the fees and charges applying to his credit card. And that he's continued to use his card for cash transactions, knowing he would be charged a minimum of £3 each time he did so.

I appreciate that Mr P feels that £3 is a proportionately high fee for a £5 transaction. But Santander has set its minimum cash transaction fee at £3. This is a commercial decision and it's not the role of this service to tell it how much it's allowed to charge.

I also think it was fair for Santander to charge him a £12 fee on the occasions he went above his credit limit. This fee is for breaking the terms of the agreement and is separate to the cash transactions fees. The fees for cash transactions shouldn't have been a surprise to Mr P. And I think he should reasonably have been aware that using the card the way he did might result in him exceeding his credit limit.

Mr P has commented that Santander has refunded fees and charges to him in the past. But I think it's made it clear to him that this was a gesture of goodwill. In its letter of December 2017, Santander told Mr P "*if the card is used in a similar manner in the future all quasi cash transaction fees and subsequent interest applied will be valid*". So, I won't be asking Santander to refund any fees or charges to him.

Overall, I think all the charges have been fairly applied in line with the terms and conditions of the account. Mr P agreed to these when took out his credit card and Santander has given him clear information about them. So, I don't think Santander has done anything wrong.

### **My final decision**

For the reasons I've explained, I don't uphold Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 7 February 2020.

Anne Muscroft  
**Ombudsman**