

The complaint

Miss C has complained that Santander UK Plc (“Santander”) acted unfairly by continuing to apply changes to her account when she was in financial difficulty and that the changes to Santander’s charging structure has resulted in the cost of her overdraft increasing.

What happened

Miss C complained to Santander about the excessive charges she was incurring on her overdraft when she was in financial difficulty. She said the extra cost made her overdraft more difficult to repay. Santander didn’t uphold the complaint. And as Miss C was dissatisfied she referred the complaint to our service.

Miss C’s complaint was considered by one of our adjudicators. They thought that Santander ought to have realised that Miss C was experiencing financial difficulty by 2 October 2017 and so shouldn’t have added any more interest, fees and charges from this point onwards. Santander disagreed so the case was passed to an ombudsman.

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.

Santander will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I don’t consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I’m intending to find that Santander acted unfairly when it continued charging overdraft interest and associated fees after it reviewed Miss C’s overdraft on 2 October 2017. By this point, it ought to have been clear that Miss C was in no position to sustainably repay what she owed within a reasonable period of time.

By this point, Miss C was hardcore borrowing. In other, words she hadn’t seen or maintained a credit balance for an extended period of time. Santander’s own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure. So I think that Miss C’s overdraft usage should have prompted Santander to have realised that Miss C wasn’t using her overdraft as intended and shouldn’t have continued offering it on the same terms. As Santander didn’t react to Miss C’s overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Miss C ended up paying additional interest, fees and charges on her overdraft and this ended up exacerbating difficulties she already had in trying to clear it. So I think that Santander didn’t treat Miss C fairly and she lost out because of what Santander did wrong. And this means that it should put things right.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Miss C's complaint for Santander to put things right by:

- Reworking Miss C's current overdraft balance so that all interest, fees and charges applied to it after the review on 2 October 2017 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Miss C to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Miss C's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft on 2 October 2017.
- It is unclear whether Santander has sold an outstanding balance on this account to a third-party debt purchaser, or asked a third-party to collect the balance on its behalf. But if Santander has sold an outstanding balance on this account to a third-party debt purchaser, it will need to either buy the account back from the third-party and make the necessary adjustments, pay an amount to the third party in order for it to make the necessary adjustments, or pay Miss C an amount to ensure that it fully complies with this direction.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Miss C along with 8% simple interest[†] on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Santander should remove any adverse information from Miss C's credit file.

[†] HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Miss C a certificate showing how much tax it has taken off if they ask for one.

My final decision

For the reasons I've explained, I'm upholding Miss C's complaint. Santander UK Plc should put things right in the way I've set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 9 November 2021.

Caroline Davies
Ombudsman