

The complaint

Mr P has complained that Santander UK Plc (“Santander”) acted unfairly by continuing to apply charges to his account when he was in financial difficulty.

What happened

Mr P complained to Santander that it was unfair to charge him excessive fees when he was in financial difficulty. Santander didn’t uphold the complaint. And as Mr P was dis-satisfied he referred the complaint to our service.

Mr P’s complaint was considered by one of our adjudicators. They thought that Santander ought to have realised that Mr P was experiencing financial difficulty by 2 January 2015 and so shouldn’t have added any more interest, fees and charges from this point onwards.

Santander disagreed, it says that all charges were applied correctly and in line with the terms and conditions of the account and that Mr P hadn’t wasn’t responsive when it tried to contact him. 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 and associated fees on Mr P’s account from 2 January 2015. By this point, it ought to have been clear that Mr P was in financial difficulty and allowing Mr P’s account to go into unarranged overdraft and charging fees for this would further exacerbate this.

By this point, Mr P was already clearly struggling to manage his existing overdraft limit with Santander. For example, he hadn’t seen or maintained a credit balance for an extended period of time and was constantly exceeding his overdraft limit and incurring unarranged overdraft fees. In these circumstances, I think that Santander ought to have realised that continuing to allow Mr P to use his overdraft in this way wasn’t in his best interests and there was a significant risk Mr P’s indebtedness would increase unsustainably.

Mr P ended up paying additional interest, fees and charges on his account and this ended up exacerbating financial difficulties he already had. So I think that Santander didn’t treat Mr P fairly and he 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 Mr P's complaint for Santander to put things right by:

- Reworking Mr P's account and overdraft balance so that all interest, fees and charges applied to it from 2 January 2015 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Mr P to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr P'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 January 2015.

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 Mr P 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 Mr P's credit file.

† HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Mr P 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 Mr P'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 Mr P to accept or reject my decision before 3 December 2021.

Caroline Davies
Ombudsman