

The complaint

Ms S has complained that Santander UK Plc (“Santander”) acted unfairly by continuing to apply charges to her account when she was in financial difficulty.

What happened

Ms S complained to Santander that the fees it applied to her account caused her financial difficulty. Santander says the charges were applied correctly in line with the terms and conditions of the account and didn’t uphold the complaint. And as Ms S was dissatisfied she referred the complaint to our service.

Ms S’s complaint was considered by one of our adjudicators. They thought that Santander ought to have realised that Ms S was experiencing financial difficulty by 1 May 2018 and so shouldn’t have added any more interest, fees and charges from this point onwards.

Santander didn’t respond 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 on Ms S’s overdraft from 1 May 2018. By this point, it ought to have been clear that Ms S was in no position to sustainably repay what she owed within a reasonable period of time.

By this point, it was clear that Ms S was having difficulty managing her money. Ms S’s statements show that she had a number of returned direct debits or paid item fees, and was clearly using their overdraft to make ends meet as she was reliant on it to meet essential payments. In these circumstances, it ought to have been apparent that Ms S was at a significant risk of experiencing financial difficulty and so should have been treated with forbearance rather than having had even more interest, fees and charges added to her overdraft.

Ms S 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 Ms S 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 Ms S's complaint for Santander to put things right by:

- Reworking Ms S's current overdraft balance so that all interest, fees and charges applied to it from 1 May 2018 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Ms S to arrange a suitable repayment plan, Ms S is encouraged to get in contact with and cooperate with Santander to reach a suitable agreement. If it considers it appropriate to record negative information on Ms S's credit file, Santander should reflect what would have been recorded had it started the process of taking corrective action on the overdraft from 1 May 2018. Santander can also reduce overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Ms S over their limit.

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 Ms S 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 Ms S's credit file. Santander can also reduce Ms S's overdraft limit by the amount of refund if it considers it appropriate to do so.

† HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Ms S 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 Ms S'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 Ms S to accept or reject my decision before 18 February 2022.

Caroline Davies
Ombudsman