

The complaint

Mr G has complained that Santander UK Plc continued charging him excessive amounts for his overdraft when he was in financial difficulty.

What happened

Mr G complained to Santander about the charges that had been applied to his account in the previous 15 years. He said he'd been experiencing financial difficulties throughout this period and the charges had made things worse. Santander didn't uphold the complaint. And as Mr G was dissatisfied, he referred the complaint to our service.

Mr G's complaint was considered by one of our adjudicators. He explained that we would only be able to consider charges applied from 2014 onwards. He also explained that he thought Santander ought to have realised that Mr G was experiencing financial difficulty by 1 February 2016 and so shouldn't have added any more interest, fees and charges from this point onwards. Santander didn't agree 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 1 February 2016. By this point, it ought to have been clear that Mr G was in no position to sustainably repay what he owed within a reasonable period of time.

I say this because Mr G's statements showed evidence of significant gambling, use of payday lending, and other high cost borrowing. Mr G was also regularly incurring charges for unpaid and returned payments, another indicator that he was struggling to manage his account. And in these circumstances, Santander ought to have realised that Mr G was at a significant risk of being unable to repay what he already owed. Santander has said it regularly reviews customer accounts to ensure that overdraft limits are still appropriate, and I think the conduct of Mr G's account by 1 February 2016 should have given Santander cause for concern. In these circumstances, I think that Santander ought to have realised that continuing to allow Mr G to use his overdraft in this way wasn't in his best interests, and that he was at a significant risk of experiencing financial difficulty. And so Santander should have treated him with forbearance rather than adding even more interest, fees and charges to his overdraft.

I acknowledge that Mr G was able to repay his overdraft later on in 2016, through an increased payment from his employer and some apparent betting windfalls. But these funds

were quickly used up, with much of them being used for more betting, this isn't a sustainable way for an account to be managed.

In reaching my conclusions, I've thought about what Santander has said about the Consumer Credit Sourcebook, the terms and conditions of Mr G's account, its process and any actions it may have taken. But for the reasons I've already explained, I remain satisfied that it wasn't fair to continue adding charges to Mr G's account from 1 February 2016.

Mr G ended up paying additional interest, fees and charges on his overdraft and this ended up exacerbating difficulties he already had in trying to clear it. So I think that Santander didn't treat Mr G 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 G's complaint for Santander to put things right by:

- Reworking Mr G's current overdraft balance so that all interest, fees and charges applied to it after 1 February 2016 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Mr G to arrange a suitable repayment plan, Mr G 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 Mr G's credit file, Santander should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in February 2016. Santander can also reduce the overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Mr G over her 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 Mr G 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 G's credit file. Santander can also reduce Mr G's overdraft limit by the amount of the refund if it considers it appropriate to do so.

† HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Mr G a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr G'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 G to accept or reject my decision before 22 February 2022.

Sophie Mitchell
Ombudsman