

The complaint

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

What happened

Mr E complained to Santander about the charges that had been applied to his account. Santander didn't uphold the complaint. And as Mr E was dissatisfied, he referred the complaint to our service.

Mr E's complaint was considered by one of our adjudicators. He thought that Santander ought to have realised that Mr E was experiencing financial difficulty by August 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 agree with our adjudicator that Santander acted unfairly when it continued charging overdraft interest and associated fees after August 2018. By this point, it ought to have been clear that Mr E was at significant risk of financial difficulties and was unlikely to be in a position to sustainably repay what he owed within a reasonable period of time.

I say this because Mr E's statements showed evidence of significant gambling and repeated payday lending and other high cost borrowing. Mr E's account was also showing signs of 'hardcore borrowing', it hadn't maintained a credit balance for some time. And in these circumstances, Santander ought to have realised that Mr E 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 E's account by August 2018 should have given Santander cause for concern. In these circumstances, I think that Santander ought to have realised that continuing to allow Mr E 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.

Mr E 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 E 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 E's complaint for Santander to put things right by:

- Reworking Mr E's current overdraft balance so that all interest, fees and charges applied to it after August 2018 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Mr E to arrange a suitable repayment plan, Mr E 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 E's credit file, Santander should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in August 2018.

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 E 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 E's credit file.

† HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Mr E 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 E'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 E to accept or reject my decision before 2 March 2022.

Sophie Mitchell
Ombudsman