

Complaint

Mrs R and Mr R have complained about the overdraft charges Santander UK Plc ("Santander") applied to their current account. They've said Santander should proactively have let them know how to reduce their overdraft fees.

Background

Mrs R and Mr R's complaint was looked at by one of our adjudicators. She didn't think that Santander had done anything wrong and so didn't uphold the complaint. Mrs R and Mr R disagreed and asked for an ombudsman's decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having carefully considered everything provided, I'm not upholding Mrs R and Mr R's complaint. I'll explain why in a little more detail.

I think it would be useful for me to explain that while Mrs and Mr R might have preferred Santander to have contacted them earlier about their overdraft usage, there wasn't a requirement for it to do this until 2019. This was when the regulator brought in new rules which required banks to proactively identify repeat users of overdrafts and prior to this there was no requirement for a bank to intervene in this particular way. So while I know Mrs R and Mr R feel strongly about this, I don't think Santander failed to do something it ought to have done and I'm not upholding Mrs R and Mr R's complaint on this basis.

Nonetheless, as Mrs R and Mr R have complained about the interest, fees and charges Santander added to their overdraft, I've, in any event, looked at whether Santander, for any other reason, added the interest, fees and charges it did to Mrs R and Mr R's account unfairly. Before I go any further, I want to be clear in saying that I haven't considered whether the various amounts Santander charged over the years were fair and reasonable, or proportionate in comparison to the costs of the service provided. Ultimately how much a bank charges for services is a commercial decision. And it isn't something for me to get involved with.

That said, while I'm not looking at Santander's charging structure per se, it won't have acted fairly and reasonably towards Mrs R and Mr R if it applied these interest, fees and charges to Mrs R and Mr R's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Mrs R and Mr R were experiencing financial difficulty. So I've considered whether there were instances where Santander didn't treat Mrs R and Mr R fairly and reasonably.

In other words, I've considered whether there were periods where Santander continued charging Mrs R and Mr R even though it ought to have known they were in financial difficulty or it ought to have realised this was the case. I've looked through the account statements

provided throughout the period concerned. And I can't see that Santander ought to have been aware that Mrs R and Mr R might have been struggling during the period referred to.

Mrs R and Mr R did regularly pay overdraft fees and they may say that this in itself ought reasonably to have led Santander to realise that it was unfair to charge them. But it's clear that sufficient funds were being paid into the account. And these suggested that Mrs R and Mr R were in a position to repay the fees as well as any balance within a reasonable period of time. Equally, while I'm not seeking to make retrospective value judgements over Mrs R and Mr R's expenditure, nonetheless there are significant amounts of account transfers as well as non-committed, non-contractual and discretionary transactions account going from the account.

I accept neither of these things in themselves (or taken together) mean that Mrs R and Mr R weren't experiencing financial difficulty. But there isn't anything in these transactions in themselves which ought to have alerted Santander to potential financial difficulty, or prompted it to take corrective action in relation to the overdraft facility.

In my view, taking such action here would have been disproportionate bearing in mind the consequences of Santander doing so and there was no suggestion Mrs R and Mr R weren't in a position to repay their overdraft within a reasonable period of time. For the sake of completeness, I'd also add that any fees and charges for the overdraft were being taken at the same intervals. And I can't reasonably agree that couldn't have adjusted and left sufficient funds in their account to cater for this.

So, in these circumstances and in the absence of being told anything by Mrs R and Mr R, I don't think that it was unreasonable for Santander to have proceeded adding the charges that it did add. As this is the case, I don't think Santander charged Mrs R and Mr R in circumstances where it ought to have realised that it was unfair to do so and I'm not upholding Mrs R and Mr R's complaint. I appreciate that this will be very disappointing for Mrs R and Mr R. But I hope they'll understand the reasons for my decision and that they'll at least feel that their concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mrs R and Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 30 March 2022.

Jeshen Narayanan
Ombudsman