

## **Complaint**

Ms M and Mr W have complained about the overdraft charges Santander UK Plc ("Santander") applied to their current account. They've said that the charges are unfair and excessive.

## **Background**

Ms M and Mr W's complaint was looked at by one of our adjudicators. He didn't think that Santander had done anything wrong and so didn't uphold the complaint.

Ms M and Mr W disagreed with the adjudicator 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 Ms M and Mr W's complaint. I'll explain why in a little more detail.

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 while Ms M and Mr W say the charges are excessive and not proportionate this simply isn't something for me to get involved with, no matter how dissatisfied they may be with Santander about this.

That said, while I'm not looking at Santander's charging structure per se, it won't have acted fairly and reasonably towards Ms M and Mr W if it applied these interest, fees and charges to Ms M and Mr W's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Ms M and Mr W were experiencing financial difficulty.

So I've considered if there were instances where Santander didn't treat Ms M and Mr W fairly and reasonably. In other words, I've considered whether there were periods where Santander continued charging Ms M and Mr W 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 Ms M and Mr W might have been struggling during the period we've looked at.

Ms M and Mr W did use their overdraft regularly 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 funds were regularly being paid into the account. And these suggested that Ms M and Mr W were in a position to repay the balance within a reasonable period of time. Equally, while I'm not seeking to make retrospective value judgements over Ms M and Mr W's expenditure, nonetheless there are significant amounts of 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 Ms M and Mr W weren't experiencing financial difficulty. But, in the absence of Ms M and Mr W saying anything, I don't think that the transactions themselves 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 likely impact on Ms M and Mr W's credit rating and most crucially there was no suggestion they weren't in a position to repay their overdraft within a reasonable period of time.

So, in these circumstances and in the absence of being told anything by Ms M and Mr W, 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 Ms M and Mr W in circumstances where it ought to have realised that it was unfair to do so and I'm not upholding Ms M and Mr W's complaint.

I appreciate that this will be very disappointing for Ms M and Mr W – especially as they have quite rightly pointed out that they have been waiting sometime for an answer from us. But I hope they'll understand the reasons for my decision and that they'll at least feel their concerns have been listened to.

### **My final decision**

For the reasons I've explained, I'm not upholding Ms M and Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mr W to accept or reject my decision before 1 April 2022.

Jeshen Narayanan  
**Ombudsman**