

The complaint

Mr M says Santander UK Plc (“Santander”) should not have provided him with an overdraft or limit increases as they were not affordable. He says Santander continued charging him excessive amounts for the overdraft when he was in financial difficulty.

What happened

The details of this complaint are well known to both parties, so I won’t repeat them again here. Instead, I’ll focus on giving my reasons for my decision.

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 think Santander acted unfairly when it continued charging overdraft interest and associated fees after it renewed Mr M’s overdraft on 26 November 2018. By this point, it ought to have been clear that Mr M was in no position to sustainably repay what he owed within a reasonable period of time.

Mr M was hardcore borrowing. In other, words he hadn’t seen or maintained a credit balance for an extended period of time. Santander’s own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure. So, I think that Mr M’s overdraft usage should have prompted Santander to have realised that Mr M wasn’t using his overdraft as intended and they shouldn’t have continued offering it on the same terms.

Mr M managed his account well between May 2020 and June 2021 and only used his overdraft sporadically, but from June 2021 to April 2022 (when Santander switched his account to help Mr M reduce his monthly charges) he stayed in overdraft and the extent of his overdraft, and the resultant charges was heightened by Santander’s decision to increase his overdraft limit from £2,500 to £4,500 very shortly after Mr M had returned his account to credit. That extra credit/emergency borrowing was quickly utilised by Mr M. As Santander didn’t react to Mr M’s overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Mr M 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 M fairly and he lost out because of what Santander did wrong. And this means that it should put things right.

I note that Santander did offer some support to Mr M. They sent out a High Cost credit letter in August 2022 and again on several occasions in 2023 and asked Mr M to contact them to discuss the issues. But those letters post date the times when I think Santander should have been more supportive. Santander have also explained that they believe Mr M has been using his overdraft to support his business and that the terms of his account explain that it may not be used for business purposes. But I'm not considering whether the account was misused, and I still think Santander weren't fair or reasonable when allowing Mr M to continue to use his overdraft in a way for which it wasn't intended.

Mr M has recently explained that Santander has resumed charging him overdraft fees on his new account. He doesn't feel they have been supportive to him. They are new issues, and this Service can't consider complaints about problems the business hasn't already considered. If Mr M continues to have concerns about those new issues he will need to refer a complaint to Santander first and if he remains dissatisfied he can then escalate his complaint, as before, to this Service.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr M's complaint for Santander UK Plc to put things right by:

- Reworking Mr M's current overdraft balance so that all interest, fees and charges applied between the renewal date of 26 November 2018 and the 31 May 2020 and between 1 June 2021 when the account went into overdraft and 21 April 2022 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Mr M to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr M's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft on 26 November 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 M 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 M's credit file.

† HM Revenue & Customs requires the business to take off tax from this interest. They must give Mr M 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 M'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 M to accept or reject my decision before 9 May 2024.

Phillip McMahon
Ombudsman

