

complaint

Mr O has complained that Santander UK Plc (Santander) mis-sold a Reward packaged bank account to him in 2009. He paid a monthly fee for the account and received benefits in return.

background

I attach my provisional decision of 23 July 2018, which forms part of this final decision.

In my provisional decision I set out why I thought I should uphold Mr O's complaint.

I asked both Mr O and Santander to provide any further comments and any new evidence before I made my final decision.

my findings

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I see no reason to change the conclusions I came to in my provisional decision. So it follows that I uphold this complaint and Santander needs to put things right in line with the compensation I've detailed below.

In response to my provisional decision, Mr O has provided his recollections of the sale. As I've already addressed this in my provisional decision and I'm upholding his complaint, I don't think I need to comment on this further.

Santander has accepted my provisional decision. It initially asked to make deductions on the compensation offered to Mr O. This was if Mr O had benefited from any banking features of the account (such as the amount paid in additional account charges). And Santander could show he still would've paid these charges, even if he hadn't paid a packaged bank account fee. However, Santander has since confirmed it doesn't intend to make these deductions. So Santander needs to put things right in the way I've described below.

what Santander should do to put things right

Santander should:

- Refund the Reward account fees Mr O has paid and
- add interest at 8% per year simple on the account fees from the date they were paid to the date of settlement†;

overdraft charges

Mr O has also said he's paid overdraft fees as a result of the Reward account fees. If Mr O has paid overdraft fees in a given charging period that he otherwise wouldn't have done if he hadn't been charged the Reward account fee, Santander should also refund this. And it should add 8% per year simple on the overdraft charges from the date they were paid to the date of settlement. †

If the overdraft charges would've still occurred without the Reward account fees then Santander isn't required to refund them as part of this decision.

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

banking benefits (of the Reward account)

Santander has confirmed it isn't going to make any further deductions for any banking benefits Mr O may have gained through the Reward account (which he otherwise wouldn't have gained on a fee free account and he still would've incurred even without the packaged bank account fee.) So it follows that because of this Santander isn't entitled to make any such deductions.

my final decision

For the reasons explained, I uphold Mr O's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr O to accept or reject my decision before 8 December 2018.

Claire Lisle
ombudsman

my provisional findings

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

We have explained how we handle complaints about packaged bank accounts on our website. I have used this approach to help decide what to do about Mr O's complaint. Where evidence is incomplete and matters are in dispute, as they are here, I make my decision based on what I think is most likely to have happened given the evidence that is available and the wider circumstances at the time.

Having done so, I currently plan to uphold Mr O's complaint about his Reward account. I'll explain why below.

I'll start by explaining that there's limited information available in relation to this sale. Santander is unable to confirm how the account was upgraded. Mr O has said it took place in branch. He's said he went into branch to take out a credit card and get an overdraft. But Santander has said Mr O already had an overdraft prior to upgrading and the limit didn't change when he upgraded. In addition, Santander has said that Mr O hasn't held a credit card with it. So with this in mind, I'm not persuaded that Mr O can fully recall what happened at the time the sale that took place and I don't know whether or not it did take place in branch.

When Mr O upgraded to the Reward account, the key features were worldwide family travel insurance and car breakdown cover. In addition it also offered ID protection, card loss assistance and key protection.

I've not been provided with anything persuasive that makes me think Santander assessed Mr O's needs and based on this, recommended the Reward account to him. So because of this, I don't think Santander had a responsibility to check if the account features were right for Mr O. Santander did need to give Mr O enough information so he could decide if the account was right for him. This included providing him with clear, fair and not mis-leading information about any insurance and highlighting any significant or unusual terms.

Mr O has said he didn't need any of the features of the account. At the time of the sale it's not in dispute that Mr O wasn't driving and his account statements support that he didn't start driving until around a year after upgrading. Santander has argued the account would've been useful to him at this point, but I can't see why Mr O would've wanted to take out breakdown cover a year in advance of starting to drive. Santander has also said he could've used it as a passenger, but again I don't think Mr O would've taken out breakdown cover for this reason.

As I've explained the other key benefit of the account was worldwide travel insurance and I note that Mr O did travel. Mr O has said he had his own travel insurance through work and, as Santander has highlighted on Mr O's statements, within days of the upgrade there's a payment for this. So I have some reservations about whether or not Mr O was interested in the travel insurance provided by the account. But in any event, Mr O has told us about existing medical conditions he has. Looking at the terms of the policy Mr O needed to declare his medical conditions with the insurer or they wouldn't be covered. And once he had declared the conditions the insurer would then decide if it was willing to provide cover for this and if so, on what terms.

The terms relating to existing medical conditions were a significant limitation of the policy which should've been highlighted to Mr O when he upgraded. As I've explained, there's limited information available about what was discussed during the sale. On the basis that Mr O has said the sale took place in branch (which as I've explained I have some reservations about) Santander has provided a copy of a "Reward Account Declaration" form. Looking at this form I note that it's an account opening form and as Mr O upgraded from an existing fee free account I don't necessarily know if this would've been applicable. But in the event it was, whilst I note it gives high level information about the account features, I don't think it provided clear information about the terms relating to pre-existing medical conditions. It says that existing medical conditions may be excluded but doesn't give any further information and doesn't explain that medical conditions needed to be declared to the insurer. In a

separate column it says that "you will need to register further information" but it doesn't make it clear that this is in relation to existing medical conditions.

In addition, looking at the declarations section of this form I can see it suggests that a policy document is sent after the sale, so Mr O was unlikely to be provided with this at the time of the sale. The declarations also refer to a policy summary, a copy of which I haven't been provided with. But in any event, I don't know if Mr O was provided with a policy summary at the time (in part because I don't have a form completed by Mr O or anything persuasive to show this was a branch sale). And even if I was satisfied it was provided to Mr O, I still don't know how well the advisor highlighted it to Mr O during any conversation which may have taken place. So I haven't seen enough to safely say that Mr O's information needs were met at the time of the sale.

To summarise, looking at the key features of the account (breakdown cover and worldwide travel insurance) I don't think Mr O had a demand or need for the breakdown cover the account provided when he upgraded. And even if I were to accept that Mr O was interested in the travel insurance provided by the account (which seems unlikely given he took out his own separate cover around the time of the sale) Santander hasn't done enough to demonstrate that it met Mr O's information needs in relation to this. And Mr O also hasn't used any of the other features of the account or registered any items.

So I think that Santander failed to provide Mr O with clear enough information and so something went wrong when Mr O upgraded his account. As a result, Mr O has lost out by paying account fees he otherwise wouldn't have done.