

complaint

Mr C complains that Santander UK Plc keeps allowing him to go into unauthorised overdraft, then charging him for that. He says it promised it wouldn't do that, and he can't afford it because he's on benefits.

background

Mr C has had an account with Santander for eleven years, and he said he keeps having the same problem, with Santander letting him go into unauthorised overdraft, then charging him for that. He wanted Santander to stop allowing him to use an unauthorised overdraft, and to refund everything he's paid for that.

Santander wouldn't agree to our service considering charges applied over six years before Mr C complained. It showed us Mr C had repeatedly incurred charges from not having enough money to cover payments, and for being in an arranged overdraft. But it told us all the charges had been applied correctly, and it didn't think it had made a mistake in this case.

Our investigator explained to Mr C that we couldn't consider charges applied more than six years ago, and he agreed to our service considering the remainder of his complaint. So our investigator did that, but she didn't think that the rest of this complaint should be upheld. She said Santander had applied charges in line with its terms and conditions, and it was allowed to use money that Mr C had paid into his account to pay those charges.

Mr C said that wasn't fair. He told us Santander's staff had told him that it would never again charge him for an unauthorised overdraft. And he thought Santander wasn't allowed to use the money from his benefit payments to do that. He didn't think the law allowed it to do that.

Our investigator said that it was more likely that Santander hadn't said this in quite the way that Mr C remembers. And she wouldn't ask it to pay the money back. Mr C wanted an ombudsman to make a final decision on his case, so it was passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached the same overall conclusion on this complaint as our investigator.

I can see that Mr C has been charged for using an unauthorised overdraft, and for payments that have failed. But the terms of his account allow for those charges. I haven't seen anything that suggests to me that these terms haven't been followed.

Mr C doesn't think Santander should take this money, because it's benefits. He said Santander promised not to do that. But, like our investigator, I don't think it's likely that Santander said that in quite the way that Mr C remembers. Santander has told us that its policy says that it will apply these charges, even if the money in the account is all benefits. So it said it wouldn't promise him not to do that.

Mr C also thinks the law doesn't allow Santander to take this money. But I don't think that's quite right. There is law that protects people's benefits. But it just isn't as wide in scope as Mr C thinks. As I understand it, that law doesn't mean that Santander is doing something wrong when it uses money in Mr C's account to pay his bank charges.

I thought that Mr C might perhaps be better off with a different sort of bank account, one that doesn't allow him to go into an unauthorised overdraft. Santander does offer accounts that do that. And it's spoken to him about these charges in the past, so I wanted to make sure that Santander had offered to change Mr C's account type for him, if he wanted to.

Santander has shown us notes that say it offered Mr C a choice account in 2016. That has a monthly fee, and has controls in place to stop people going into unauthorised overdraft.

Because Santander has only charged Mr C what it's allowed to charge him, I don't think it has to pay these charges back. And because it has suggested to Mr C how he could avoid those charges in future, I don't think that Santander has let Mr C down.

I know that Mr C will be disappointed, but I don't think his complaint should be upheld.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 September 2019.

Esther Absalom-Gough
ombudsman