

complaint

Mrs L complains that the charges applied to her bank account are unfair and that Santander UK Plc ("Santander") has not responded sympathetically to her financial difficulties.

background

Our adjudicator was not persuaded that Santander has treated Mrs L unfairly. She referred first to the 'test case' brought by the Office of Fair Trading ("OFT") to establish if it could assess whether the amounts the banks were charging were fair. The courts ruled that these sorts of charges did not generally amount to penalties and could not be challenged on the ground that they were too high. This meant the OFT lost its case, and the legal action ended in a decision by the Supreme Court – the highest court in the United Kingdom.

While recognising the difficult circumstances Mrs L had experienced, our adjudicator explained that Santander was not automatically obliged to refund bank charges that had been correctly applied, even in cases involving financial difficulty. Once Santander was aware Mrs L was experiencing financial difficulties, it had a duty to respond positively and sympathetically. The adjudicator reviewed the bank's actions in this context.

The adjudicator noted that Mrs L opened her account in September 2011, and has always – except for a short period of time in 2012 – operated it with a debit balance. However, it wasn't until December 2012 that Mrs L's account first exceeded its arranged overdraft limit of £200.

The adjudicator noted that, after Mrs L did not bring the account back within its arranged overdraft limit, the bank started to contact her and was able to agree a repayment plan with Mrs L based on what she told the bank she could afford. As part of this arrangement, charges and interest were suspended, £100-worth of charges was refunded and a further £100 of impending charges waived. By taking this action, the adjudicator concluded the bank was meeting its obligation to respond positively and sympathetically to Mrs L.

The adjudicator noted that Mrs L's account exceeded its overdraft limit again in November 2013. She explained the bank has offered to refund £130 of charges to Mrs L, and is keen to arrange a repayment plan with her. Again, by offering a partial refund of charges and in wanting to arrange another repayment plan with Mrs L, the adjudicator believed the bank to be acting positively and sympathetically.

However Mrs L remained unhappy with the way the bank has acted, as she wants a full refund of charges. She has asked for her complaint to be reviewed by an ombudsman.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I am not persuaded I should depart from the adjudicator's view.

As far as the charges are concerned, the adjudicator explained that our consideration is largely limited to whether they have been applied in error. In this case, I am satisfied that the charges applied to Mrs L's account were not applied in error. This does not, however, stop me looking at whether the bank treated Mrs L positively and sympathetically given that she is in financial difficulties.

In this particular case, having reviewed Mrs L's statements, I am satisfied that the bank has taken reasonable steps to try to help her. When it became aware that her account had exceeded its agreed overdraft limit, it proactively contacted Mrs L and arranged a repayment plan Mrs L said she could afford. It also refunded and waived charges, and stopped any further interest and charges being applied during the repayment plan.

It is unfortunate that Mrs L left her account at its arranged overdraft limit when she stopped using it, rather than repaying the debit balance owed to the bank. Because of this, further charges have been applied and the overdrawn balance owed is increasing. The bank has indicated it is keen to assist Mrs L further, and to this end has offered to refund £130 of charges and asked her to contact its collections team to arrange another repayment plan.

I understand that Mrs L is unwilling to do so. This is ultimately her prerogative, but insofar as the bank has assisted her in the past, and is offering to do so again now, I am satisfied that the bank has done all we would reasonably expect it to do in the circumstances.

my final decision

Mrs L is in what I imagine a difficult position, but for the reasons set out above, I am not persuaded that Santander UK Plc has failed to meet its obligation to treat Mrs L positively and sympathetically. As a result, I do not consider I can fairly require it to do more than it has already done.

My final decision is that I do not uphold this complaint, in the sense that I do not require Santander UK Plc to make any further order or award. I leave it to Mrs L to decide whether she wishes to accept the bank's offer to refund £130 of charges.

Jeff Parrington
ombudsman