

complaint

Mr W complains about £750 worth of bank charges that Santander UK PLC applied to his current account sometime around 2005/2006. He is also unhappy about the way the bank managed his loan account when he had difficulties keeping up the monthly repayments. And he complains that Santander removed his overdraft facility without warning.

background

Mr W complained to Santander about bank charges he was unhappy about. The bank responded and issued its final response letter on the subject in August 2012. It said it couldn't locate the fees Mr W was referring to but if Mr W was unhappy with the bank's response, he was entitled to refer his complaint to this service within six months.

Mr W wrote to the bank again in 2013 to complain about calls he was getting from the bank about his outstanding loan account – and he also raised the question of charges again. Santander dealt with the issues raised (and repeated what it had already told him about old bank charges). And Santander reminded Mr W that he could refer his complaint to this service within six months if he was still unhappy.

Mr W wrote again to Santander in 2014. He asked the bank for the information he was entitled to have under the Data Protection Act going back 6 years. Santander responded and, once again, it reminded Mr W of his right to refer his complaint to this service within six months if he was still unhappy

Mr W first contacted this service in 2014. He told us his complaint related to current account charges and overdraft fees, and he was unhappy with the charges applied to his account. And that Santander had removed his overdraft facility without warning. And he also mentioned that when he was receiving job seekers allowance more than half of his allowance was going towards paying off his loan.

Our adjudicator looked into each of the issues Mr W had raised and set out her views as follows:

charges debited from Mr W's account in 2005/2006

Our adjudicator agreed with Santander that Mr W's complaint about charges was out of time. She explained that we can't consider a complaint referred to us more than six months after the bank's final response letter is issued, unless there are exceptional circumstances. Our adjudicator asked Mr W to let us know if he believed there were exceptional circumstances that explained why he was unable to complain sooner to us about this matter.

removal of Mr W's overdraft limit without notification

Our adjudicator explained that each lender has the commercial right to decide whether and on what grounds it wishes to lend. And we don't usually interfere with the legitimate exercise of this right. In Mr W's case, without sight of the notice he received from the bank, she didn't feel able to say if it removed the overdraft limit earlier than it should have. But she said that as Mr W was experiencing financial difficulties, the bank had a responsibility to respond positively and sympathetically. And overall she felt it had done. So, with this in mind, she couldn't say the bank had acted incorrectly.

loan repayments and interest

Our adjudicator investigated the background thoroughly. But she felt she hadn't seen any persuasive evidence to show that the bank ever took more than the amount Mr W had agreed to pay. She said Santander had completed income and expenditure assessments on several occasions to work out what Mr W could afford. And where this indicated he wasn't in a position to make a suitable repayment it agreed a breathing period, following which he was to return to the bank with his proposals. She said the payments to his loan account appeared to have been made at Mr W's request, following payments he made into the current account. Our adjudicator said she was unable to see that Santander had added interest to the loan account. So, she felt she couldn't say the bank hadn't acted sympathetically when considering Mr W's financial difficulties.

Mr W disagrees with the adjudicator. He says, as he understands the time limit, he contacted us within the six month period from the date of his last letter from the Bank. He remains very unhappy about the £750 charge he has referred to. Mr W also makes the point that he was receiving up to five pre-recorded mobile phone messages a day and at least three printed letters a week at the time when he was already paying back what he could off the loan. And he says the amount owing as shown on these letters was confusing and didn't properly take into account what he'd repaid.

Mr W would like an ombudsman to take another look at what's happened so his complaint has been referred to me.

my findings

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

Mr W has been trying his best to manage his finances responsibly during what has clearly been a difficult period for him. He hasn't always been able to rely on regular pay going into his account and he's been dependent for some of the time on state support. So I can understand his frustration if he feels the bank hasn't done all that it could to assist him.

We expect all banks to treat fairly any customer who has financial problems. My role is to consider whether Santander has acted in a way that hasn't been fair and reasonable. I'll deal with each of Mr W's complaints in turn.

charges going back to 2005/2006

First, I must be satisfied that this service has legal power to investigate a complaint. We are required by law to follow our rules. Santander has objected to us considering Mr W's complaint about the £750 bank charge he's mentioned – as it is entitled to do under the rules. And I can see that when Mr W raised this with Santander the bank sent him its final response letter on this particular issue in 2012.

I can't find on these facts that Mr W referred his complaint about the £750 bank charge to us within six months of the bank's final response letter on this issue. Mr W is right when he says he contacted us within six months of the bank's most recent letter to him. But the fact that he continued to correspond with the bank after he had already received the bank's final response letter in 2012 on this point doesn't affect my decision. I haven't identified any exceptional circumstances here which prevented Mr W from bringing this complaint to us sooner. So I consider this particular complaint has been brought out of time under the rules I must apply and I can't look at this.

removal of Mr W's overdraft limit

I have looked at all the information we've got about what happened when Santander removed Mr W's overdraft limit. The bank's terms and conditions allow it do this and I've seen a copy of the standard letter it sends to customers in this situation which gives appropriate notice. I haven't seen anything to suggest that the bank wouldn't have followed its normal procedure in Mr W's case. At the time the limit was withdrawn no funds had been received into Mr W's account for some time. So I can't fairly say the bank's decision to do this was unfair or unreasonable.

And I agree with our adjudicator that Santander did treat Mr W positively and sympathetically in recognition of his financial difficulty at the time. I say this because it had extended time for repayment of his overdraft and refunded some charges already applied to his account and waived some other pending charges. So, on balance, and looked at overall, I find Santander's response to this aspect of Mr W's complaint is fair and reasonable.

Mr W's loan repayments

I appreciate that Mr W remains unhappy about the way the bank managed his loan account when he had difficulties keeping up the monthly repayments. And I can see that when he first complained to the bank in 2013 about receiving unsolicited calls, Santander agreed the number of calls had been excessive. It credited £50 to his account.

Mr W is concerned that Santander hasn't acknowledged that any calls were made to him on a Saturday evening. He's adamant this happened – even though Santander says its records don't show this. I can't say if Mr W is right about this – I've taken into account that it is possible that Santander's records might not show every call made to Mr W. But even if Mr W is correct and Santander did call him on a Saturday evening, I feel that the redress it paid him in 2013 would be ample to cover this.

Dealing more generally with Mr W's complaint about the way Santander managed his loan account, I can see the bank completed a number of income and expenditure reviews with him to check what he could afford to pay in relation to his loan. Repayment plans were subsequently agreed and on this basis I agree with our adjudicator that I can't fairly say Santander acted wrongly, unfairly or unreasonably.

my final decision

For these reasons, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to accept or reject my decision before 27 June 2015

Susan Webb
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