

## **complaint**

Mr V complains about unfair charges he says Santander UK plc has applied to his account. He wants the bank to admit its error and for the charges to be refunded.

## **background**

Mr V tells us he's had an account with Santander for many years. He says that over this period Santander has imposed unfair charges on him. This, he says, has led to him taking pay day loans to cover these charges. He says Santander knew this as his account statement showed payments to payday loan companies.

He feels the level of charges is unfair and that these had a snowball effect - leading to him incurring further debt on the account. He accepts that Santander has made *goodwill payments* but says that these should have been classed as refunds for errors. He wants a refund of all charges since the account opened and an acknowledgement from Santander that it made a mistake in imposing them.

When Mr V complained Santander told him that it had tried to help him as best it could. It pointed out he'd received *goodwill payments* above those which would normally be given. Where mistakes had been made they'd been corrected and it had been ensured that they had no impact on future statements. It said that accounts were not individually monitored regarding debit types. And that it relied on customers to keep it informed of any difficulties they were facing. It felt it had gone above its policy in at times refunding properly imposed fees. Accordingly it would not agree to refund the charges it said had been correctly imposed.

Our investigator who looked into this case advised that in 2007 the Office of Fair Trading had started a "test case" case against a number of banks. But it had lost - and the High Court ruled that account charges were fair. She said we would expect a customer in difficulties to be treated fairly and sympathetically - and that Santander had in the past refunded over £800 in charges since 2011. She felt that was a fair outcome and would not recommend Santander did anything else.

Mr V was not happy with this and asked that an ombudsman make the final decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Firstly I need to explain that I'm only able to deal with part of Mr V's complaint. I've looked into the past history of the account and find that on 5 June 2013 Santander sent Mr V a final response letter to a complaint he'd raised at that time. That complaint covered much of the same ground as this matter.

Under our rules - Dispute Resolution Rules (DISP) - I can only look at cases within certain time limits. One of the limits - which applies in this case - is that a customer must normally complain to us within six months of a final response letter being received. As most of the charges that Mr V refers to were incurred before then I can't deal with them. Whilst both I and the investigator have viewed matters prior to 5 June 2013 this should be considered merely as a means of getting the whole picture of account activity into context.

Our adjudicator let Mr V know this more than a month ago. I'm not aware that he got back to her.

Since 2013 I can see the account has mostly been in credit and such charges that have been applied are within the terms and conditions of the account. I also need to clarify what the investigator said. The reference to the OFT case should have said that in 2009 the Supreme Court ruled that bank charges could not usually be challenged on the grounds of unfairness.

But again I see that an overdraft charge was refunded in late 2013. So I can't see that Santander has done anything wrong in the period I'm able to look at. So it wouldn't be fair and reasonable to ask it to refund the charges that Mr V has requested.

Whilst I know this will disappoint Mr V I am not going to uphold this complaint

**my final decision**

For the reasons given above I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 26 June 2017.

Stephen D Ross  
**ombudsman**