

complaint

Mrs K complains that the fees Santander UK Plc (Santander) charged her when she went into unauthorised overdraft are unfair.

background

Mrs K held a bank account with Santander without an overdraft facility. Mrs K mainly used her account to fund an online payment account.

Towards the end of 2016 Mrs K's account became overdrawn due to having insufficient funds in her account to pay a direct debit. Around two weeks later two direct debit payments went unpaid - again due to insufficient funds.

Although Mrs K caught up with her payments and brought the balance on her account back into credit by the end of the month, when Santander applied its charges to her account the following month - for going into unarranged overdraft and for the failed direct debits - it sent Mrs K back into overdraft causing further charges being applied in the two subsequent months.

When Mrs K contacted Santander about the charges it agreed to refund the initial charges as a gesture of goodwill but told her it was unable to refund the subsequent charges and that if she was suffering financial difficulty she needed to contact its financial assist team.

Although Mrs K said she was in financial difficulty she was unwilling to contact the financial assist team and raised a formal complaint.

Our adjudicator investigated Mrs K's complaint and thought that Santander had correctly applied its charges in line with its terms and conditions and didn't think it had done any wrong.

Mrs K disagreed. She thinks the charges are unfair and wants a refund.

So her complaint has come to me for a 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.

I've read the terms and conditions and key facts that apply to Mrs K's bank account and seen a record of the transactions on her account for the period in question. And from what I've seen I think Santander correctly applied its charges to Mrs K's account in line with its terms and conditions when she went into unarranged overdraft. And I don't think Santander has done anything wrong here.

The next thing I need to consider is whether Santander treated Mrs K fairly when she contacted Santander about this. And I think it did.

I have listened carefully to the recording of the phone call between Santander and Mrs K when she contacted it about the charges applied to her account.

Santander's adviser confirms what the charges relate to and offers to refund the charges for one month as a gesture of goodwill. He then tells Mrs K about a free service she could subscribe to which would keep her informed of the balance on her account when it was getting low and help her avoid going into overdraft in the future.

She is then told that there are further charges on her account for being in overdraft the following month and that she would need to put funds into her account to avoid going further into overdraft. He explains that he can't refund these charges as he didn't have the authority to refund more than one month's worth of charges.

Mrs K is clearly upset by this as what she understands put her into overdraft were the very charges Santander were agreeing to refund. She says she's in financial difficulty and can't pay the charges. Mrs K is told if she is suffering financial difficulty to contact Santander's financial assist team who will need to look into her income and expenditure to see how it can help. But Mrs K is unwilling to contact financial assist, choosing instead, to raise a complaint.

Santander is required to treat Mrs K's financial difficulties positively and sympathetically. Mrs K doesn't think it's fair that she is being charged for going into overdraft when it was Santander's charges that put her in overdraft for a further month. But ultimately Mrs K is responsible for managing her own account and making sure she has sufficient funds in it to settle payments leaving her account. And the reason she found herself in overdraft in the *first instance* is because she failed to do this.

While Santander is required to treat Mrs K's situation positively and sympathetically that doesn't mean it has to take any particular course of action. By offering to refund one month's worth of charges, telling Mrs K how she could avoid the situation in the future and giving her the option of contacting its financial assist team I consider Santander has treated Mrs K fairly and her financial situation both positively and sympathetically. And I don't think Santander has done anything wrong.

my final decision

For the reasons I've explained, I do not uphold Mrs K's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 26 July 2017.

Caroline Davies
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