

complaint

Mr E complains that Santander UK plc has unfairly applied charges to his account, which means that his financial difficulties are more severe. He wants Santander to refund all charges on his account from 2008 until 2011, when the account was closed and passed to the bank's recoveries department.

background

Mr E complained in 2009 about charges on his account. At that time the bank said it was going to wait for the outcome of the Office of Fair Trading's investigations into such charges before it considered making a refund. Mr E then contacted the bank on several occasions to say that he was having problems and the bank suspended some charges in response. Mr E's account was closed and transferred to recoveries in late 2011. Mr E continued to contact the bank and eventually, in late 2012, the bank decided not to refund any additional charges.

The adjudicator did not recommend that this complaint should be upheld. She concluded that, as the bank had refunded some fees and that the rest had been correctly charged, the bank had not made an error. Mr E has responded to say that he feels this is against the spirit of the Supreme Court ruling on fees and charges and that the bank should have been aware of his financial difficulties earlier.

my findings

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

There are several aspects to this complaint.

Firstly, I have considered Mr E's complaint about the level of fees and charges on his account from 2008 onwards, as Mr E says these are unfair and contributed to his financial hardship. I am satisfied that the charges were applied in line with the terms and conditions for the account – so they were not charged incorrectly. Since the Supreme Court ruling in 2009, such charges cannot be challenged simply because they are, in the customer's opinion, high. So I do not find that Santander applied the charges in error.

Secondly, I have considered whether Santander responded positively and sympathetically when it knew Mr E was having financial difficulties. I can see that the bank charged fees from 2008 onwards. Mr E says that the bank should have realised he was having problems before he told it he was in 2011. I am not persuaded that this is a valid argument, as Mr E has as much responsibility for telling the bank he had problems as the bank does in assuming this from his account usage. Having said that, I have considered what the bank did do before Mr E contacted it. I can see that it charged fees for honouring payments that took Mr E above his agreed overdraft limit. Paying such items is one of the responses that I would consider to be positive, as it prevented Mr E from having problems with other creditors. A bank is also not obliged to refund fees even when it knows about financial difficulties. So, I do not find it appropriate to ask the bank to do more than it did before 2011.

In spring 2011 Mr E told the bank he was having problems and that he was using a debt management plan for a number of debts and the bank refunded or cancelled fees on several occasions, before it transferred the account to recoveries. That again is a positive response

to Mr E's issues. Mr E says he stopped using the account in late 2011, on the advice of the debt advice organisation and the account was closed. That does not mean that Mr E does not owe the bank the money outstanding at that point, and I am satisfied that the bank is entitled to ask Mr E to repay it.

As the debt is now with an external company, I would urge Mr E to contact that company to arrange payment. As with the bank, that company is obliged to respond positively and sympathetically if Mr E is still having financial problems. That does not mean that it has to stop all activity to try to recover the money, although I would expect it to arrange a reasonable repayment plan.

my final decision

My decision is that I do not uphold this complaint

Susan Peters
ombudsman