

complaint

Mrs G complains that bank charges by Santander UK Plc were unfair and have contributed to her financial hardship.

background

From 2010 to 2013 Mrs G had an unauthorised overdraft with Santander which incurred charges. She said that during 2010 she had a period of time off work due to illness. She was unpaid while not working which caused her some financial hardship and she made the bank aware of this.

Santander agreed a debt management plan during this period, of £17.67 per month. No further charges were applied from September 2010. They closed the account. Mrs G continued to make regular payments until May 2012 when she stopped. Santander sold the debt on to a third party debt collection agency mid 2013. And from September 2013 Mrs G paid £1 per month.

Mrs G complained to the bank about the charges that had been applied to the account. She felt that they were too high and was unhappy that the debt had been sold on. She also said the bank had opened another account.

Santander said that the charges were applied appropriately to her account and that it hadn't acted unfairly when Mrs G had approached it about financial hardship. It said that although a payment plan had been in place this wouldn't stop a default being registered or the debt being sold on.

Mrs G complained to this service. She was unhappy with the level of charges; that they'd added to the financial pressure she was under. She wanted the bank to purchase back the debt and write it off.

The investigator explained that the ombudsman service can't comment on whether charges are too high or unfair. She found that the charges had been applied correctly and that the bank hadn't done anything wrong.

Mrs G disagreed and asked for a final decision. She said that £25 for an overdraft wasn't fair. She was also concerned that the ombudsman service was biased.

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 note that Mrs G is worried that this service is biased. I want to reassure Mrs G that I've read through the whole case file and my review of this complaint is completely independent. That being said, I do find that I agree with the investigator's opinion and for the same reasons.

I'm very sorry to hear that Mrs G has been experiencing financial difficulty. And I can understand her concern about the charges and her request that the bank purchase the debt back and write it off.

With respect to determining whether bank charges are fair or not the ombudsman service is bound to follow the ruling of the Supreme Court. The decision of this court was that charges can't be challenged on the basis that they are too high. Therefore I can only look at whether Santander has applied charges correctly and whether the bank was aware of, and therefore sensitive to, the fact that Mrs G was in financial difficulty.

I've looked at bank statements, contact notes and the account terms and conditions for the period when charges were applied. In my view the charges have been applied appropriately. Santander has a responsibility to respond to consumers sympathetically and positively when they declare they are in financial difficulty. Mrs G said she informed the bank about her financial hardship and I'm pleased to see that the bank stopped the charges on the account in 2010 and agreed a payment plan. This is what I would expect the bank to do in these circumstances. So I can't say that the bank has done anything wrong.

In the bank's contact notes I can see that Mrs G approached the bank in 2012 offering £1 per month. Though I can't say for certain, it appears Mrs G didn't provide any evidence that this was all she could afford and she subsequently doesn't make any payments for more than a year. With no payments for this length of time I think it's reasonable for the bank to take action to recover the money it's owed. I believe the bank had acted fairly and had agreed a plan to reduce the debt. So I don't think it's fair to ask the bank to write the debt off.

Mrs G has said that the bank opened another account after closing the first. There appears to be confusion with an account that was already open prior to the events complained about. The bank confirmed that no account was subsequently opened and I haven't seen anything to dispute that.

Our investigator shared contact details of some organisations that can help if Mrs G continues to have some financial stress. This seems like a sensible way forward.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 1 September 2017.

Maxine Sutton
ombudsman