

## **complaint**

Mr and Mrs D complain that Santander UK Plc (Santander) didn't respond fairly to them when Mrs D notified it that they were in financial difficulty.

## **background**

I issued my provisional decision on 29 March 2017, a copy extract of which is attached and forms part of this final decision.

In my provisional decision, I explained why I was proposing to uphold Mr and Mrs D's complaint.

I invited all parties to let me have any further submissions before I reached a final decision.

Both Santander and Mr and Mrs D have confirmed they received my decision and accept the proposed outcome. Neither Santander or Mr and Mrs D had anything further to add.

## **my findings**

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party has provided any further evidence or arguments for consideration, I see no reason to depart from the conclusions set out in my provisional decision. It follows that I uphold this complaint.

## **my final decision**

My final decision is that I uphold Mr and Mrs D's complaint against Santander UK Plc and I direct it to pay the fair compensation as outlined in my provisional decision attached and provide a written apology.

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

Caroline Davies  
**ombudsman**

## **copy extract of provisional decision**

## **background**

Mr and Mrs D held a current account with an arranged overdraft with Santander. In 2016 Mrs D wrote to Santander and explained she was experiencing financial difficulty and asked if Santander would refund the charges incurred on their overdraft so she may reduce it and retain their account in an improved order.

Santander responded in writing saying it was able to review the recent fees applied to her account if she was experiencing financial difficulty and told her to speak with its financial assist team - who it said was aware of the situation and would be in touch shortly.

Santander went on to confirm that the fees it charged were correct and explained there was no legal basis for challenging *unarranged* overdraft fees - so it would not refund these fees.

Following this letter, Santander's financial assist team tried calling Mrs D but as the call was unanswered it sent a letter telling her to get in touch.

Santander continued to charge a monthly overdraft fee and a few months later Mr and Mrs D again went over their overdraft limit and were charged further fees. Mrs D sent an email to Santander complaining about the fees it had charged and asked for it to call her as she was having difficulty writing everything into her email before it timed out. Santander responded to this by saying everything had been charged correctly and pointing her towards its terms and conditions.

Mrs D replied saying that Santander had failed to meet her needs and that she was in the process of closing her account and reporting it to the Ombudsman. Santander again tried to call Mrs D but got no response and sent her a letter asking her to get in touch.

Mrs D tried on numerous occasions to call Santander on the number it provided but being unable to get through she wrote again and reiterated the content of her initial letter and complained about the lack of a satisfactory response. She confirmed after taking financial advice she had taken steps to consolidate her debt and has had to move to another bank.

Santander responded to this by repeating its answer in its first letter to her and told her of her right to refer her complaint to us. At which point Mr and Mrs D did just that.

### **my provisional findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Although the complaint is brought by both Mr and Mrs D - because they are the joint holders of the account with Santander - I will mainly refer to Mrs D throughout my decision as it's her who has been corresponding with Santander.

I'm currently considering upholding Mr and Mrs D's complaint and I'll explain why:

In situations of financial difficulty banks are required to treat their customers positively and sympathetically. But this requirement only arises when it becomes aware of the situation. Mrs D first notified Santander that she was having financial difficulties in May 2016. So it's from this point I will consider whether the actions Santander took were positive and sympathetic to Mrs D.

At the first sign of financial trouble customers are generally advised to contact their bank. This is what Mrs D did. She wrote a detailed letter to Santander giving it a background to her financial situation since she retired, explaining how its charges were causing her financial difficulty and that she wanted to improve her situation.

Mrs D also told Santander that she suffered from a mental health condition which she took medication for and that her financial difficulties were exasperating this.

I consider someone in the circumstances highlighted by Mrs D's letter to be quite vulnerable. And I would expect Santander to identify this and to respond appropriately.

But I don't think Santander did identify this or take appropriate action. I say this because I can see from Santander's screenshots that it records whether it considers a customer vulnerable. In Mrs D's case after receiving her letter it recorded she didn't indicate any vulnerability.

And while in dealing with a vulnerable customer in financial difficulty Santander doesn't have to follow any particular course of action, its actions do have to be fair and appropriate to the circumstances. I can't see Santander here has done anything beyond the bare minimum. An unanswered phone call and initial written generic response – which failed to even address Mrs D by the correct name.

Following which Santander continued to charge overdraft fees and when Mr and Mrs D once again went outside their overdraft limit still didn't try to contact them. But it charged more fees, as it pointed out – it's within its rights to do so.

At this point once again Mrs D got in touch with Santander, but after corresponding back and forth and getting nowhere new, Mrs D was forced to take what I consider a proactive and responsible step of taking financial advice and moving banks.

So it follows I think Santander failed to treat Mrs D's financial difficulties positively and sympathetically or respond appropriately. I think Santander should apologise for its failings and pay Mr and Mrs D £250 in compensation for the distress and inconvenience caused by its failure to respond appropriately.

### **my provisional decision**

My provisional decision is that I uphold this complaint. If my decision becomes final I'll direct Santander UK Plc to pay Mr and Mrs D £250 in compensation and provide a written apology.

Caroline Davies  
**ombudsman**