

complaint

Miss S has complained that Santander UK Plc hasn't treated her fairly as she's said she's suffering from financial difficulties. She thinks the charges she's incurred on her current account are unfair and are forcing her into a spiral of debt.

background

Miss S has had a current account with Santander for many years, and since August 2014 she's had a £2,500 overdraft limit. In March 2018 Miss S contacted Santander to complain about the level of charges on her current account and said she was in financial difficulties.

Santander refunded £73 of charges that were incurred in May 2018 as a gesture of goodwill, but said it wouldn't refund any others. It said Miss S needed to speak to its financial support team as they could review Miss S's circumstances and decide the best course of action. Miss S said her phone was disconnected and she was too busy to visit a branch to use their phone as she worked full time including weekends. Santander located a branch near her work and said Miss S could make an appointment to visit in her lunchbreak.

Our adjudicator said she didn't think Santander had done anything wrong. She said that there was nothing to show Miss S told Santander of her difficulties before March 2018 and that as soon as she did it took reasonable steps to try to assist her. Miss S disagreed with our adjudicator's view and so it's been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm afraid I agree with our adjudicator's view and for broadly the same reasons.

Miss S has said she's suffering from financial difficulties, but as our adjudicator explained the difficulties are mainly due to Miss S using gambling websites. Just as an example, I've gone through Miss S's statement for July 2018 and by my calculations she paid out over £8,500 to gambling websites in that month alone by way of over 270 individual transactions on her debit card. And she received just over £4,800 in credits back from those gambling websites. That's a net spend - or loss - of about £3,700 in just one month. Bearing in mind Miss S's salary receipt that month was just under £3,500 it's easy to see why Miss S's financial situation may be worsening.

The problem I have here in deciding this complaint is that Santander has no responsibility to review its customers' accounts to see what they're spending their money on and proactively look for problems. I appreciate Miss S had issues with her Santander credit card but that was a result of paying late, rather than not paying at all. And I understand she defaulted on a Santander loan. But Santander has said Miss S told them she'd missed payments on that due to a relationship breakdown and she thought her ex-partner was making the payments. She assured Santander she had no financial difficulties and would be maintaining the payments going forwards. The income and expenditure she completed supported that. Unfortunately the payments weren't made and the debt was defaulted and sold on.

Having considered everything I can't find anything to show Miss S notified Santander of her financial difficulties before March 2018. Banks are required to deal positively and

sympathetically with customers in financial difficulty – but customers need to tell them if they're struggling.

I know Miss S is concerned about the charges applied to her account. The Supreme Court ruling in 2009 says that charges can't be challenged on the basis they're unfair or too high. They can only be challenged if they've been applied incorrectly, against the terms and conditions of the account. Looking at Miss S's statements, and the terms and conditions of her account, I haven't seen anything which suggests that Santander applied the charges incorrectly.

Miss S needs to speak to Santander. I appreciate she says she works full time, including weekends and that her mobile phone has been disconnected, but it's in her interests to speak to Santander to move things forward. I understand both the branch near Miss S's home and the one nearest to her work are open between 9am and 5pm Monday to Friday (except Wednesday where they open at 10am) and Saturday 9am to 4pm. Miss S must have some time off work - or a lunchbreak - between those hours at some point and Santander has said it's happy to arrange a branch appointment for her at her convenience where she can then use the branch phone to contact the financial support team.

Miss S said she asked if Santander could call her or do things via email or secure chat but no other options were given. Santander isn't able to carry out the review by email or secure chat which is understandable and is normal industry practice, but it has already offered to call Miss S back. It simply needs Miss S to give the phone number she's to be called on and to arrange a suitable time so that can be done. Miss S has recently given us some more information about her health which I won't go into here to protect her privacy, but again unless she gives that information to Santander it can't take it into account when looking at how it can help her. Santander is willing to work with Miss S and to help her, but it can only do that if Miss S speaks to its financial support team.

I appreciate the reasons why Miss S has brought this complaint and I'm sorry to hear of the difficulties she's found herself in. But looking at everything that happened, I don't consider that Santander has treated her unfairly.

my final decision

I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 21 January 2019.

Julia Chapman
ombudsman