

complaint

Mr A complains about charges on his authorised Santander UK Plc overdraft as well as charges on borrowings that exceeded his overdraft limit.

background

Mr A held a loan that was coming to an end as well as an overdraft on his current account. He was in financial difficulties and wanted to consolidate his debts. He was also unhappy at the charges on the overdraft which had increased since he opened the account. Mr A discussed his options with Santander and was advised to take out another loan. This was declined. The adviser said he would appeal on Mr A's behalf but since then the adviser never contacted Mr A again. Santander acknowledged this poor service and paid Mr A £50.

Mr A says that he received very poor service and the charges on the overdraft were unfair and caused his difficulties to worsen. Santander refunded £55 of charges but considers it applied the charges correctly. It has also explained why the loan was declined.

The adjudicator did not recommend this complaint should be upheld. She concluded the charges had not been incorrectly applied. While the service had been disappointing she concluded the compensation paid was fair and reasonable. Mr A disagrees and says he was given poor advice that made his situation worse.

my findings

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

I have sympathy with Mr A and his frustration at the level of service he received from Santander. However, as regards the charges on the overdraft, I agree with the adjudicator that these were correctly applied in accordance with the terms and conditions of his account. I acknowledge Mr A feels they contributed to his difficulties but unfortunately, in the absence of bank error, I am unable to order the refund of charges correctly applied. This is because of the decision of the Supreme Court in November 2009 in the Office of Fair Trading's "test case" that bank charges cannot be challenged on the grounds they are unfair or disproportionate.

As a result, while Santander did refund £55 of charges, it was not obliged to do so and I cannot fairly require it to refund any additional sums.

Turning to Mr A's loan application and the advice he received. I note that Santander has apologised for the service Mr A received and paid him £50 compensation. On balance, in all the circumstances, I consider this is not sufficient compensation for the treatment Mr A received. I conclude Mr A did not receive good service in relation to the options he was presented with, especially since he had approached Santander in order to get his financial affairs in order and explained he felt he was experiencing financial difficulties.

As the adjudicator explained, a bank is required to treat a customer in financial difficulties in a positive and sympathetic way. In all the circumstances, I consider the failure to assist Mr A in relation to his loan application or to follow up with him after the appeal was made was not only poor customer service, but also a failure to act positively and sympathetically given the ongoing fees and interest on his debts.

As a result I consider Santander should pay Mr A additional compensation for his distress and inconvenience.

my final decision

My final decision is that Santander UK Plc should pay Mr A £100, in addition to the refund of charges and £50 payment it has already made, in full and final settlement of this complaint.

Zoe Copley
ombudsman