

complaint

Mr R, represented by his father, complains that Santander UK Plc has applied charges to his account and recorded adverse information on his credit file.

background

Two direct debits were returned on Mr R's account which led to Santander applying charges and the account became overdrawn. As a result further daily unarranged overdraft fees were applied and as no further credits were made to the account it remained overdrawn for some time. Santander has nevertheless refunded the charges to Mr R as a gesture of goodwill. But Mr R and his father say that the charges and fees have been applied incorrectly and they want the adverse information recorded on Mr R's credit file to be removed.

Our adjudicator did not recommend that the complaint should be upheld. In summary she considered that Santander was entitled to apply the charges and fees to Mr R's account in line with the account's terms and conditions. She also noted the recent Supreme Court decision on bank charges which meant the charges cannot be challenged on the basis of being unfair or disproportionate. She could not say that Santander had misapplied the charges and considered it had acted fairly and reasonably in refunding them when it was not obliged to do so. She also noted that the account had not been defaulted but was delinquent as it was in arrears and was overdrawn when there was no agreed facility in place. Consequently, the information recorded on Mr R's credit file was correct.

Mr R and his father do not agree. In summary they say Santander did not refund the fees as a gesture of goodwill. They consider they were manufactured by Santander and were re-credited because they should never have been applied in the first place. They do not consider Mr R has been treated fairly. Mr R's father has suggested Santander should pay Mr R £150 compensation and remove the adverse information on his credit file.

my findings

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

Having done so, I agree with the conclusions reached by our adjudicator for broadly the reasons given.

I am satisfied that as result of the conduct of the account Santander was entitled to apply the charges and fees it did, and that it has done so in line with the account's terms and conditions. I also consider it was not obliged to refund the charges it has and that the refund was, as it says, a gesture of goodwill.

I am also satisfied that the information it has recorded on Mr R's credit file is factually correct and records accurately the conduct of his account. In any event it was and remained Mr R's responsibility to monitor his account to ensure it remained in credit and payments in were made and charges avoided. Nevertheless the bank has refunded the charges which I consider is fair and reasonable.

Overall, although I recognise Mr R's father's strength of feeling I am not persuaded that Mr R has been treated unfairly or Santander has done anything wrong or that it would be fair or reasonable to require it to pay Mr R compensation, remove any information from his credit

file or do any more than it has done already. So, I see no compelling reason to change the proposed outcome in this case.

Mr R's father has said Mr R is prepared to seek redress in the courts. My role as an ombudsman is to consider the individual complaint and decide whether something has gone wrong. But a court may take a different view of the situation. Should Mr R not accept my final decision then any rights he may have to take action in the courts against Santander are unaffected and he will be free to pursue his, and his father's, arguments in any court action that may arise, if he so wishes.

my final decision

My final decision is that I do not uphold this complaint.

Stephen Cooper
ombudsman