

## **complaint**

Mr W complains that Santander UK Plc did not help him when he was experiencing financial hardship. He also complains about charges applied to his account.

## **background**

Mr W says that Santander applied approximately £3,000's worth of charges to his account between January 2011 and January 2013. He complained to Santander several times that these charges were unfair and that he was in financial difficulties.

Santander investigated Mr W's complaints and agreed to refund charges on a number of occasions. Santander also gave him advice about how to avoid further charges and contact details for organisations offering help and advice. Mr W complained to us as he was not satisfied with Santander's response.

Our adjudicator did not recommend that this complaint be upheld as he considered the steps Santander had taken to be positive and sympathetic. In addition, he considered that the charges had been applied in accordance with the terms and conditions of the account. Our adjudicator explained why we cannot look at complaints that charges are otherwise unfair given the Supreme Court's judgment on charges in November 2009.

Mr W disagreed with our adjudicator's recommendations and complained about a direct debit that Santander paid after he had already tried to cancel it and the fact that Santander recommended he change to a fee paying account when it was not in his interests to do so. He asked for an ombudsman to review his complaint. Following our adjudicator's recommendations, Santander offered to refund a further £280 of charges following a change in Mr W's circumstances.

## **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 am satisfied that Mr W's finances were difficult throughout 2011, 2012 and 2013. He had no overdraft facility in place and often had insufficient funds in his account when payments were due to go out resulting in charges being applied.

I am satisfied that on a number of occasions Mr W got caught in a cycle of charges – that is to say charges applied to his account led to further charges. However, I am also satisfied that Santander recognised this and that it refunded charges as well as giving Mr W advice in an attempt to break each cycle of charges. I am satisfied that Santander refunded £200 of charges a while ago. It has told us that it has now refunded the additional £80 it offered and that this will credit Mr W's account in the next couple of days.

I can understand why Mr W feels Santander has treated him unfairly given that his wife, who he says was in a similar position, received larger charge refunds than he did. However, I cannot say that Santander failed to treat Mr W positively and sympathetically on that basis alone. In this case, I am satisfied Santander took the steps we would expect of a lender. Santander must, however, continue to treat Mr W positively and sympathetically if, as is likely, he remains in financial difficulties.

Our adjudicator has already explained why, in light of the Supreme Court's judgment in November 2009, we cannot look into the level of charges banks apply. We can, however, look at whether or not charges were applied in accordance with the account's terms and conditions. In this case, I am satisfied that they were.

**my final decision**

My final decision is that the steps Santander UK plc has taken are fair and reasonable, including refunding a further £280 in charges. I am not requiring Santander UK plc to take any further action on the understanding that Mr W has now received this further £280 refund.

Nicolas Atkinson  
**ombudsman**