

## **complaint**

Mrs M complains that Santander UK Plc has applied unfair bank charges to her account over a six year period.

## **background**

Mrs M says that the bank charges and interest she has paid on her current account are unfair and have contributed to her financial hardship.

Our adjudicator did not recommend that her complaint be upheld. She said that Mrs M had gone over her overdraft limit a number of times, and that the charges had been made by Santander correctly. She said that current account charges cannot be challenged on the basis they are too high or unfair. She said this because of a Supreme Court ruling in 2009 and explained that there is no exception, whether there was financial hardship or not. But that Santander would be expected to respond positively and sympathetically to any financial hardship.

Mrs M said that there was a court case where charges had been ordered to be paid back. Also that Santander had not responded positively and sympathetically. But our adjudicator noted that the court case was different to Mrs M's, and also that Santander had offered account management help and to review recent charges. Overall she did not consider that Mrs M's complaint should succeed. Mrs M disagreed. She says she did a full budget review with Santander in July and also contacted the debt charity and Santander should have all these details.

## **my findings**

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

Mrs M complained to Santander in September 2015. She wanted it to refund charges for the last six years. She said she was ill and the current account charges have affected her personal situation and caused financial hardship.

But, as our adjudicator has explained, following the decision made by the Supreme Court, it is generally not possible for a claim to a charges refund to succeed on the basis that they were too high or unfair.

Mrs M has sent in details of a court case where a bank customer was refunded charges. But as our adjudicator explained that case was different, as the charges had been made by the bank without explanation. In Mrs M's case, the bank charges were in line with Santander's terms for the account.

Mrs M also says that Santander ignored the fact that she and her husband were ill, and the income and expenditure details she sent it. But these details had been given earlier in 2015 to different parts of Santander, in relation other joint accounts/her husband's account. Santander says it responded to Mrs M's complaint about her current account and it advised her to speak to a debt charity. It also provided the contact number for its financial difficulties department. Mrs M says she tried to call and got put on hold. Santander says it returned calls on several occasions. Santander has said the number is available at weekends, and its

staff need to go through Mrs M's financial position with her. In my view this is a reasonable response and Mrs M was offered appropriate help by Santander.

I am afraid that Mrs M has a responsibility to manage her account within the overdraft limit. Santander says the interest and charges due to leave the account were shown on online statements which Mrs M had access to. Santander is able to make charges when transactions are unpaid or paid over the agreed overdraft limit. The charges cannot be challenged as being too high or unfair.

Santander has offered help to Mrs M, which may assist so that she can minimise account charges. That appears to me to be a positive and sympathetic response.

**my final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 29 March 2016.

Janine Allen  
**ombudsman**