

## **complaint**

Mr P complains about charges that Santander UK Plc has applied to his account.

## **background**

Mr P said that he's been with the same bank for about seven years. He said that five years ago the current account was changed to a 123 account, which has a monthly fee. He said that he wasn't aware there was a monthly fee for the account, Santander hadn't told him that. He said he stopped using this account some time ago, but he was still being charged. He said that Santander has now decided to close his account and waive the charges, but this will be recorded on his credit file.

Mr P said that he would like the charges and interest refunded to him, and the negative information removed from his credit file.

Santander showed us a number of letters that it has sent to Mr P about the issue of charges on his account, and it said that it had waived account fees a number of times.

Santander wrote to Mr P in February 2017. It said then that he'd told it that the account had already been changed to one without fees. But Santander said it hadn't been able to find any call evidence of that. It thought then that it may have made a mistake in not changing his account type for him. So it refunded the fees he'd paid since April 2016, and charges he'd paid since December 2016. It also waived any overdraft fees he might incur until the date of the letter.

Santander said then though that Mr P would continue to accrue charges on the account in future.

Santander wrote to Mr P again in September 2017. It referred to its letter from February 2017, and reminded Mr P that he had been told then that until he changed his account, fees would continue to accrue.

Mr P said that he was going to change the account. But he didn't do that.

Santander wrote to Mr P at the start of April 2018 about this complaint. It said that fees and charges had been applied in line with the terms and conditions of this account. It gave him some advice on avoiding fees in future, and told him how much he owed then.

Santander wrote again to Mr P shortly after that, at the end of April 2018, to say that the outstanding balance on his account was only made up of fees. It said that it would close his account in 60 days' time, but it would report the overdrawn balance to credit reference agencies in the meantime.

Our investigator didn't uphold this complaint. She said that Santander had responded to Mr P's latest complaint within the eight weeks that it is allowed to do so. She said that Mr P had also made a number of other complaints. Santander has both refunded fees, and it has explained the charges to him. It offered to change this account for Mr P on a call in February 2017, but Mr P didn't want to do that then.

Our investigator said that perhaps Santander's goodwill gestures, refunding fees, had let Mr P to believe that no further fees would apply. But our investigator was satisfied that the

information that Santander gave him at the time correctly informed him about fees and charges. And our investigator didn't think that Mr P wasn't actually told at any time that he would no longer be charged in future.

Our investigator said that she thought it was reasonable to expect that charges would be applied if Mr P went into unarranged overdraft. And she said that Santander had applied the account fees and charges in line with the terms and conditions. She also said that whilst she appreciated that Mr P was unhappy that this account had affected his credit file, she didn't think that Santander had done anything wrong when it reported the status of his account to credit reference agencies.

Mr P said he wasn't happy with this. He said he'd received more letters recently asking him for payment, and a new complaint response letter, which he said he would send us for us to consider. He said that Santander had never told him about the fees on his account, and he hadn't looked at his statements, so he didn't see the fees on there.

Mr P said he wanted his complaint to be considered by an ombudsman because he thought that the law on fees should be changed, so this case was passed to me for a final decision.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached the same overall conclusion on this case as our investigator, and for broadly the same reasons.

Our service doesn't regulate banks, and it doesn't set the law on bank fees. So I can't change the overall position on what banks are allowed to charge. I can only look at what has happened in Mr P's case. So that's what I've done.

I listened to the call that Santander had with Mr P in February 2017. I can hear on that call that Santander offered then to transfer him to an advisor who would help him to change his account type to one without charges. Mr P didn't want to do that at that time, he said he would call back and change the account. The call handler was clear on that call that Mr P would still be charged for the account until he did that. I don't think that Santander did anything wrong when it continued to charge Mr P fees after this.

I'm aware that Mr P challenged the fees on this account again in September 2017. I think that it was reasonable for Santander to refer Mr P back to the conversation it had with him in February 2017, and explain that he would continue to be charged fees until he changed his account type. I can't see any evidence that Mr P has tried to do that, so I don't think that Santander has made a mistake by continuing to charge Mr P fees.

Santander wrote to Mr P at the end of April, after he'd made another complaint about fees. It said then that because his account debt was made up only of fees, it would write off that debt and close his account. It said that this would show on his credit file, but he wouldn't have to pay. I think that was a reasonable response for Santander to make to an account which wasn't being used, and was in debt, so was just continuing to run up further debt made up of fees and charges.

Mr P sent us letters that Santander has sent him recently. Those letters weren't legible, so we asked Mr P for clearer copies. He didn't send us those, so we asked Santander if it could

send us copies. It has done so. I've compared these to the letters that Mr P has sent us, and I'm satisfied that they are likely to be the same.

These letters deal with two issues. One of those is a complaint which hasn't been raised with us previously. Our investigator explained to Mr P that he would need to raise this as a separate complaint if he wanted our service to consider this. I agree with that. I don't think it would be reasonable for me to restart this investigation now, so that I can consider this new issue as part of this case. So I won't deal with that issue here.

The other letter is a further request for payment within seven days, sent on 7 July. We asked Santander why it would ask for payment now, when it had said in April that it was going to close this account.

Santander said that when it wrote to Mr P in April, to say it was going to close his account and refund the fees, Mr P replied to ask Santander not to do that. So Santander didn't take that step at the time. This meant that Mr P still owed money for this account. That's why Santander wrote to Mr P in July, asking him to pay off the debt on this account. I don't think Santander did anything wrong when it did that.

Santander also said that it still thinks that the right thing to do with this account is for it to close the account, and to refund the fees. It has told us that it wrote to Mr P again on 7 August, giving him 60 days notice of its intention to close his account.

Mr P isn't using his Santander account, and although he's said a number of times that he's going to change the account type so he doesn't have to pay a monthly fee, he hasn't done that. In the meantime, the account continues to run up debt, which Mr P doesn't seem to have paid off. So I think that closure is a reasonable step for Santander to take.

I've considered Mr P's complaint carefully, and I don't think that Santander has done anything wrong. So, although I know that Mr P will be disappointed, I don't think his complaint should be upheld.

### **my final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 24 October 2018.

Esther Absalom-Gough  
**ombudsman**