

complaint

Mr and Mrs B complain that Santander UK Plc caused them problems when it paid them some money by mistake.

background

Mr and Mrs B said that they were in financial difficulties. And Santander paid them some money by mistake. They spent it. They realise that they have to pay it back, but they said that Santander took it all back at once. That pushed the couple well over their arranged overdraft. And then Santander said that they had to pay their overdraft back too. They didn't think it was fair that they had to pay all of this money back at the same time.

Santander said that it could see that it had made some mistakes in this case, but it didn't think it was wrong to take the money back. And it thought that the couple now needed to pay back all the money they owed.

Our adjudicator upheld this complaint. She said that she didn't think that it would be fair to separate out the money that Santander had loaned the couple as an overdraft, and the money it had wrongly paid into their account. All the money they owed needed to be paid back. But she thought Santander should come to an arrangement with the couple for them to pay the money back.

Santander suggested that it could put their account into an unarranged overdraft for three months and allow them to pay what they could afford during this period. Then the remaining amount could be placed into a repayment arrangement agreed between the couple and Santander. Santander said that once the arrangement had been agreed, no adverse information would be recorded on their credit file. But our adjudicator said that this would mean that adverse information would be recorded on the couple's credit file for the first three months. She didn't think that was fair. So she suggested that Santander allow the couple three months to make voluntary repayments of whatever they can afford, without recording adverse information on their credit files. Then it should arrange a repayment plan to run for a further fifteen months, to pay off the remaining balance, without recording adverse information on their credit files. Santander shouldn't charge Mr and Mrs B any fees or interest during this period. And it should pay Mr and Mrs B £150 to say sorry for the distress its mistakes had caused.

Santander didn't agree, so the 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 conclusion as our adjudicator, and for the same reasons.

There are two parts to the couple's debt to Santander. One part was made up mainly of an arranged overdraft. Santander doesn't want to let the couple have an arranged overdraft any more. The other part is an unarranged overdraft. That was created when Santander took the money it had paid into their account by mistake back out. Santander wants the couple to pay all of this back.

Although I appreciate that there has been some confusion in this case, I think it is now clear that the money Santander paid into the couple's account by mistake does need to be paid back. So it can ask for that part of the debt.

Mr and Mrs B say that they were already having financial problems before Santander reclaimed that money, and it isn't fair to expect them to pay off their overdraft at the same time. But this service won't usually make a bank lend someone money. And in this case, when the couple have accepted that they are finding it hard to manage, I don't think it would be fair for me to tell Santander that it's got to lend them money. So Santander can ask the couple to repay that part of their debt too.

I agree with our adjudicator, that whilst the couple shouldn't have spent the money Santander wrongly transferred into their account, Santander has made things worse. So whilst I think that Santander can ask for the money back, it should do that without damaging the couple's credit file, without charging interest or fees, and in a flexible way. I think that the solution that the adjudicator suggested does those things. So that's what I propose.

Santander should allow Mr and Mrs B three months to make voluntary repayments of whatever they can afford, without recording adverse information on their credit files. Then Santander should agree a repayment plan with Mr and Mrs B to run for a further fifteen months, to pay off the remaining balance, without recording adverse information on their credit files. Santander shouldn't charge Mr and Mrs B any fees or interest during this period. And it should pay Mr and Mrs B £150 to say sorry for the distress its mistakes had caused.

In addition, if Santander has already put any negative markers on the couple's credit file after it reclaimed the £515 it wrongly paid into their account, it should remove those.

my final decision

Santander should allow Mr and Mrs B three months to make voluntary repayments of whatever they can afford, without recording adverse information on their credit files. Then Santander should agree a repayment plan with Mr and Mrs B to run for a further fifteen months, to pay off the remaining balance, without recording adverse information on their credit files. Santander shouldn't charge Mr and Mrs B any fees or interest during these eighteen months. And it should pay Mr and Mrs B £150 to say sorry for the distress its mistakes had caused.

In addition, if Santander has already put any negative markers on the couple's credit file after it reclaimed the £515 it wrongly paid into their account, it should remove those.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 17 November 2017.

Esther Absalom-Gough
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