

complaint

Mr B complains that Santander UK Plc imposed unfair bank charges when he was suffering financial difficulty.

background

Mr B found himself in financial difficulty and he says he incurred bank charges in the period 2002 to 2010. He says he made numerous calls to the bank, but he was offered no meaningful support. The bank says that he has been a customer since early 2004. On several occasions his accounts have been in serious arrears and have been transferred to its recoveries section. On those occasions a lump sum payment was received to clear the debt. It also says that it was first told of Mr B's financial problems in 2009 and it asked him for a statement of income and expenditure but it has no record of it being returned.

Mr B first complained to the bank in 2007 and again in 2009. The bank rejected his complaints following the Supreme Court ruling on bank charges. In 2014 Mr B complained again and the bank once more rejected his complaint. However, it paid him £20 compensation for delays in responding to his complaint and refunded £45 charges as a goodwill gesture. He referred the matter to this service.

The adjudicator did not recommend that this complaint be upheld. He found that the charges had been applied in line with the terms and conditions of the account and the bank had not made an error. He further explained that the Supreme Court ruling of November 2009 said that charges cannot be challenged because they are unfair or too high.

He also considered whether the bank had dealt with Mr B sympathetically and positively in view of his financial difficulties. He concluded that when Mr B spoke to the bank about his financial problems in 2009 the bank had sought to clarify his situation, but that it had not received a response from Mr B and so he could not conclude that the bank had done anything wrong. Mr B did not agree and said that the bank had not offered him any real support when he needed it.

my findings

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

While I have some sympathy with Mr B, ultimately the responsibility for managing an account lies with the customer. I am not persuaded that the bank has made any errors in how it has applied the overdraft charges. As mentioned above, following the Supreme Court test case, these charges cannot be challenged as unfair or too high. I can see no reason to direct the bank to refund all, or any, of them.

I appreciate that Mr B was in financial hardship and was able to survive with support from his family. He seems to have been able to pay off his debts at times when he was facing recovery action from the bank and this may have masked his financial problems to some extent. According to the bank it was only aware of his financial plight in 2009 and it tried contacting him to ask for further information, but received no reply. In those circumstances I cannot safely conclude that the bank ignored his plight.

my final decision

My final decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 16 February 2015.

Ivor Graham
ombudsman