

## **summary of complaint**

Mr A complains that Santander UK Plc (“Santander”) provided inaccurate information in his account statements. He says it has applied charges and interest to his account by mistake. He contends this led to his account going over its authorised overdraft limit. He wants it to refund all the interest and charges that it wrongly applied. Mr A wants Santander to identify every cheque for which it charged him an unpaid cheque fee.

He considers he should receive compensation for the impact the bank’s actions had on his business and an award for distress and inconvenience due to the “*unprofessional*” way the bank behaved in administering his account.

## **our initial conclusions**

Our adjudicator recommended that the complaint should be upheld in part. He considered that it was more likely than not that Santander had made some mistakes in administering Mr A’s account and in compiling the copies of his statements. But he realised that the statements had been re-created manually from fiches as the original statements were no longer available due to the passage of time. He considered this may have caused the inaccuracies.

Taking this into account and considering that Mr A had not raised his complaint until more than six years after the events complained of, our adjudicator did not consider it was fair and reasonable to ask Santander to make an award for distress and inconvenience.

Our adjudicator did consider that Santander should refund some of the charges and interest. He commented that in addition to this, Santander had already made a goodwill payment of £150. He considered all in all Mr A had received fair compensation.

Mr A did not accept this conclusion. He said, in summary, Santander had not identified all the cheques for which he had paid unpaid cheque charges so it should refund these charges. Mr A considers he should get a payment for distress and inconvenience in the circumstances. He says any payment made should be made directly to him.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where necessary and/or appropriate, I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in the light of the evidence that is available and the wider surrounding circumstances.

There is no dispute that Santander did make accounting mistakes in the statements that it provided to Mr A. It may be these mistakes were made because Santander had to use a manual process to re-create the statements. But that said I consider that Santander should have provided correct information. Santander has been able to provide only limited information about the charges and interest it applied. I do not find this surprising given the amount of time that has passed since the charges and interest were applied.

Mr A has not been able to supply information to demonstrate that none of the charges or interest should have been applied. On this basis I consider Santander should fairly rework

Mr A's account by refunding the charges and interest that it appears on balance it applied to his account by mistake. The details are as follows:

*counter charges*

Santander has agreed to refund all counter fee charges as Mr A has requested. The information I have seen suggests that Santander applied 18 of these between the relevant dates. On this basis it should refund him a total of £54 as it has already agreed to do.

*cleared transaction charges*

Santander's records show that these charges should only have been applied when Mr A had exceeded his agreed overdraft limit. Neither party appears to be entirely sure what the authorised overdraft limit was. However, it appears on balance that it was £300. I say this because once this figure was exceeded charges appeared to be applied. The information I have seen suggests that these charges were applied on four occasions when the account was within the presumed authorised overdraft limit. In the circumstances I consider these charges totalling £120 should be refunded and Santander has accepted this.

*fees from 1 November 2005*

The information I have seen suggests that the last time the account was within the authorised overdraft limit was November 2005. If the £120 in charges had not been applied then the balance would have been comfortably within the authorised overdraft limit. It appears that if the correct balance had been on the account at this point then a further £80 in charges would not have been applied. On balance I consider it is fair that Santander should also refund these charges. Santander has agreed to refund these charges.

But even if these charges had not been applied it appears that the account would have exceeded the authorised overdraft position from January 2006. On this basis I conclude that the fees and charges applied from this point onwards should not be refunded.

*cash withdrawals in 2001*

Mr A has queried cash withdrawals in 2001 which he says exceeded his daily limit. He says he could not have made these withdrawals. Santander does not have information about these withdrawals to demonstrate who made them. I do not find this surprising given the age of the withdrawals.

Mr A has not told us that he did not receive statements at the time. I consider that if there was an issue with these withdrawals at that time Mr A ought reasonably to have queried them then. I cannot safely conclude that Mr A did not have the benefit of the money. On this basis I do not consider it is fair and reasonable to require Santander to refund this money to Mr A.

*unpaid cheque fees*

On one occasion the fee was charged but there was no indication that this cheque was in fact returned. So I am satisfied that this fee of £32 should be refunded.

But the information I have available to me suggests that the remainder of the cheques were returned unpaid. This leads me to consider that it is more likely than not that these fees were

correctly applied. It follows that I do not consider it fair and reasonable to direct Santander to return these fees.

*debit interest*

Santander has agreed to refund all debit interest charged to the account in relation to the charges. It tells us this amounts to £41.55. Mr A has not told us that he considers this figure is incorrect. On this basis I consider it is fair and reasonable that Santander should refund this amount.

*distress and inconvenience*

I take on board that Mr A considers that he is entitled to a payment for distress and inconvenience. But I consider that Santander has dealt with Mr A's complaint reasonably promptly. I accept it took some time to provide the information Mr A requested, but equally I realise that the information was not readily available to it.

Further, I have taken into consideration that Mr A appeared to have waited a considerable time before he asked Santander for this information. As I have said above on balance I conclude the delay contributed to the difficulty in compiling the relevant information. So for these reasons in the circumstances it is not fair and reasonable to require Santander to make a payment for distress and inconvenience in this instance.

As the charges were originally applied to the account and Mr A would never have had these funds directly I consider that is fair and reasonable that Santander should apply the refunds directly to the account thereby reducing Mr A's debt rather than refunding the money directly to him.

**my final decision**

My final decision is that Santander UK Plc should rework Mr A's account and refund:

- £286 in charges
- £41.55 in debit interest.

Joyce Gordon  
**ombudsman**