

## **complaint**

Mr B complains about unfair and disproportionate charges on his Santander UK plc account.

## **background**

Charges were applied to Mr B's account when it became inactive. The charges caused the account to become overdrawn, resulting in further charges. Santander wrote to Mr B when his account was £250 overdrawn. Mr B immediately paid the overdrawn balance and downgraded the account. However further charges were applied when the account became overdrawn again.

The adjudicator did not recommend that this complaint should be upheld. He concluded that the inactivity fees were more than likely a charge that Mr B was aware of despite the fact he did not receive paper statements. He also concluded the overdraft fees subsequently applied had been applied correctly. Mr B disagrees saying the charges are out of all proportion to the amount overdrawn.

## **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 sympathy with Mr B who feels frustrated and upset at the fees applied to his account, on balance, I agree with the adjudicator that the fees that were applied because he didn't deposit £500 each month had been applied correctly, in accordance with the terms and provision of the original current account. Like the adjudicator, I consider it more likely than not that Mr B was aware of his obligation to deposit a minimum of £500 each month or incur an underfunding charge of £5.

I accept Mr B had stopped using the account and no longer received paper statements, but given his previous vigilance in managing the account I cannot fairly conclude that Santander misled him or otherwise prevented him from knowing that the fee would be applied if the account was not kept active. Unfortunately, as a result, I am unable to find the underfunding charges were incorrectly applied.

As the adjudicator pointed out, he also had a responsibility to manage and monitor his accounts. Given the online banking records show Mr B regularly checked his account online, I am satisfied Mr B had sufficient opportunity to see the fees as they were incurred.

Turning to the overdraft fees applied after Mr B downgraded to his account, I acknowledge Mr B's upset at the total amount applied. The Supreme Court in November 2009 in the Office of Fair Trading's "test case", held that bank charges cannot be challenged on the grounds they are unfair or disproportionate. While this will come as a disappointment to Mr B, I am unable to find the fees can be refunded unless there is evidence they were applied incorrectly. As I am satisfied these fees were correctly applied in accordance with the terms and provisions of the account, I am unable to order Santander to refund them.

**my final decision**

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

**Zoe Copley  
ombudsman**