

complaint

Mrs M has complained that Santander UK Plc (“Santander”) mis-sold her two packaged bank accounts. The accounts provide various benefits in return for a monthly fee.

background

Mrs M appears to be unhappy with two points. Firstly, that she wasn’t aware she was paying charges for her bank account. But she’s also complained that Santander allowed her account to go overdrawn although she wanted an account where that wasn’t possible.

Mrs M’s account history is as follows:

- she held a free “Everyday” account
- this was upgraded to a Reward packaged bank account in October 2009
- it was then changed back to a free account in October 2013
- her account was changed to a Choice account (costing a fee) in February 2014

One of our adjudicators didn’t think that Santander had acted unfairly towards Mrs M and didn’t recommend that Santander should pay her any compensation. Mrs M didn’t agree so she asked for an ombudsman to look at the complaint and make 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.

We’ve explained how we handle complaints about packaged bank accounts on our website. I’ve used this approach to help decide what to do about Mrs M’s complaint.

Where evidence is incomplete and matters are in dispute, as they are here, I make my decision based on what I think is *most likely* to have happened – keeping in mind everything I’ve seen and been told.

After giving Mrs M’s complaint a lot of thought, I’m not going to tell Santander to give her any compensation. I’ll explain why.

the sale of the Reward account in 2009

I’ve started by thinking about whether Mrs M was given a fair choice when she took her Reward account in 2009.

Mrs M hasn’t given a lot of detail about the sale of the Reward account – which is understandable since it happened such a long time ago. And it’s equally understandable that Santander doesn’t have any records from 2009, so it hasn’t provided much information. But having considered what I do know, I think Mrs M would’ve known she didn’t have to have the Reward account if she didn’t want it. She’d previously held a free account with Santander and I’m not aware of anything that would’ve led her to believe she couldn’t have kept that. So I can’t say it’s more likely than not that Santander didn’t give her a choice about whether to upgrade, or whether to keep her free account.

I haven't seen anything to make me think that Santander recommended the Reward account to Mrs M – so it didn't have to check if the account was suitable for her. But it had to give her enough information for her to decide whether she wanted it.

Again – I don't know what information Santander gave Mrs M about the Reward account. But Santander's records suggest that Mrs M contacted one of the benefit providers to register her keys and identification documents under the ID Protection policy around two weeks after she took the account. So I think she must've received some information on the benefits of the account to know what they were and how to use them.

It's possible that Santander didn't give Mrs M as much information about the account and its cost as it should've. But having considered what's most likely, I don't think Mrs M would've expected to get the package of benefits associated with the Reward account for free. So on balance, I think it's more likely than not that Santander told her she'd need to pay a fee to have the account, and she agreed to do so because something about the account appealed to her.

So I don't think the Reward account was mis-sold.

the sale of the Choice account in 2014

Mrs M's main complaint appears to be about the upgrade to the Choice account in 2014. She's said she was made redundant in 2013 and asked Santander for an account that couldn't go overdrawn.

The first thing I've considered is whether it would've been possible for Mrs M to have an account that couldn't go overdrawn. And having considered the terms and conditions of Santander's bank accounts, as well as standard industry practice, I don't think it was.

It's common for retailers to have a "floor limit" – or a transaction amount that they're willing to approve as a debit card payment without first contacting the cardholder's bank to check for available funds. And where this is the case, those transactions will always debit the customer's account, even if there's insufficient funds at the time the transaction appears on the customer's statement. If this happens the bank will usually then charge a fee for this, often referred to as a *paid transaction fee*, an *unauthorised overdraft usage fee*, or both.

Banks can decide to honour direct debit payments set up on a customer's account, even when there are insufficient funds in the account. They can also choose *not* to honour those payments. In the case of Santander's accounts, if either of these situations happen, there's a fee to the customer – known as a *paid transaction fee* or an *unpaid transaction fee*. And these fees will still debit the customer's account even if there's not enough money in it to cover them.

As there's little information available surrounding the circumstances when Mrs M changed to the Choice account I've considered her circumstances at the time. I know she wanted an account that didn't allow her to go overdrawn but I've had to consider whether Santander acted fairly by offering her the Choice account.

As I've mentioned above, I don't think it's truly possible for a bank to offer an account that can't go overdrawn. And I can see from Mrs M's bank statements in the three months before she took the Choice account that she incurred various bank charges – totalling £85, £25 and £70. Most of these charges were caused by either paid or unpaid direct debits. In addition to this Santander has said that in the year before she held the Choice account Mrs M paid a total of £670 in bank charges. In the first year of holding the Choice account this reduced to £120 – which equates to 12 times the monthly £10 fee.

After Mrs M's account was changed to the Choice account, the way it was managed didn't change. Several payments were still returned unpaid each month and the account entered into an unarranged overdraft on a number of occasions. Had Mrs M maintained a fee-free account, she'd have been charged £25 for each unpaid direct debit, plus an additional £5 per day for entering an unauthorised overdraft. With the Choice account these fees were waived for the one-off monthly fee of £10 per month.

I don't know what discussion Mrs M had with Santander about the Choice account and it's possible that Santander didn't tell Mrs M everything it should have about it. It's also fair to say I don't know whether she agreed to it. But having considered her redundancy and the fact she was being charged a lot of bank charges each month, she appears to have benefited from having the account. And even if Santander had given her more information about it or made the monthly charge clearer to Mrs M, I still think she'd have taken it.

I want to reassure Mrs M that I've looked at all the information I have about her complaint. And I've thought about everything she's said. But having done so I don't think Santander mis-sold the Reward or Choice accounts to her. So I don't think it owes her any money.

I've noted that Mrs M still holds the Choice account. Santander says the account can't be closed until the overdrawn balance is cleared. As I don't think the account was wrongly sold to Mrs M it wouldn't be fair for me to ask Santander to return the Choice account fees to Mrs M in order to return her account to a credit balance. So she'll need to arrange to credit the account with enough to cover the overdrawn balance if she still wishes to close it.

my final decision

For the reasons I've explained, I don't uphold Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 8 May 2018.

Sam Wade
ombudsman