

complaint

Mr P complains that Santander UK plc wrongly applied bank charges to his account. He'd like the charges refunded. And compensation.

background

Mr P says he had a payment arrangement with Santander due to mortgage arrears. He says Santander agreed no charges would be applied to his current account. But from December 2016 he incurred charges of up to £20 a month. He says in February 2016 he complained. Santander refunded his charges. And gave him £100.

Mr P says he understood he wouldn't get any more charges. But in March 2016 incurred another £20 charge. He says Santander constantly told him that charges would be refunded. And he wouldn't incur any more charges.

Santander apologised and explained that charges should've been applied to Mr P's account but weren't. It paid £100 compensation for the distress and inconvenience. But explained the fees it started to charge were correct. And in line with its terms and conditions.

Our adjudicator didn't uphold the complaint. He felt Santander had correctly applied its terms and conditions. He felt it was likely Santander had said no further charges would be applied. But that the £100 compensation Santander paid was fair.

Mr P didn't accept this view. He said Santander gave him the £100 before it told him no further charges would apply. He said the £100 wasn't compensation for miscommunication but a refund of his charges

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr P feels strongly about this. I realise he'll be disappointed. I've reached the same conclusion as our adjudicator.

There's no dispute that Mr P had an arranged overdraft facility on his account. And that for some time Santander didn't charge when Mr S used his arranged overdraft facility. But then Santander started to apply charges.

Mr P says he had an arrangement not to pay any charges on his account. Santander has told us that it made a mistake. It should've charged for using the arranged overdraft fee but didn't. That's unfortunate but mistakes do occur. But just because Santander made a mistake I don't think it's reasonable to say it should allow Mr P to continue not to pay charges. Or to refund charges that have already been applied.

I've seen the terms and conditions for the account. These state that a daily fee of £1 will be charged for using the arranged overdraft. With a maximum monthly fee of £20. I can see from the statements I've been given that from October 2016 Santander started making these charges when Mr P used his arranged overdraft.

I haven't seen any evidence that Santander incorrectly applied its terms and conditions. So I don't think I can reasonably ask it to refund the fees Mr P has incurred. Or not to charge fees in the future.

Mr P has made two other points. Firstly that Santander's customer complaints team repeatedly told him that the charges had been applied in error. And he wouldn't be charged any more fees. I've listened to eight phone calls Mr P had with Santander. But I haven't found any evidence to support this. In one call the adviser says if charges were applied incorrectly they can be removed. But she doesn't say charges were applied incorrectly.

There's another call that Santander is unable to provide. But I've seen the customer notes from that call. These say that if Mr S's account stays within its Collections team no further charges would apply. But Santander has explained that Mr S's current account shouldn't have been with its Collections team. It wasn't in arrears. I think this was made clear in some of the other calls I listened to. I do think this particular call may have caused some confusion. But from the notes I didn't think Santander categorically told Mr P that no further charges would apply.

From what I've read and listened to I don't think Santander constantly told Mr S his charges would be refunded. And there wouldn't be any more charges.

Secondly Mr P says the £100 Santander paid him was a refund of his charges. Not compensation for miscommunication. And the payment was made prior to the miscommunication.

It's clear to me from both the customer notes and the final response letter that the £100 Santander paid wasn't a refund of charges. But it was a payment for the distress and inconvenience caused by the information Santander gave Mr P.

The final response letter is dated 2 March 2017. It refers to a phone call in February when Mr P says Santander told him all his fees would be refunded. So I think Santander was aware and took into account the fact Mr P said Santander had told him his fees would be refunded when it made the £100 payment.

I think Santander's actions have been reasonable in the circumstances. So I don't feel there are any grounds for me to tell Santander to refund the fees Mr P has paid. Or to tell Santander to pay further compensation.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 26 May 2017.

Bridget Makins
ombudsman