

complaint

Ms C complains about the way Santander UK Plc treated her after it applied bank charges to her account when she was in financial difficulties. She'd like the bank to accept her payment offer and remove the adverse information that it's put on her credit file. And pay her recompense.

background

Santander refunded a significant amount of charges to help Ms C. But didn't agree to remove information it recorded on Ms C's credit file.

When one of our adjudicators first got involved, he persuaded Santander to agree to write off the rest if Ms C repaid approximately half the disputed amount of charges. But Ms C didn't feel she could agree to do this unless Santander also removed the information it put on her credit file.

So another adjudicator looked again at the complaint. He was sympathetic to Ms C's situation. But he feels the settlement that's been suggested already is fair and reasonable. His view is that the information Santander has recorded is correct – so we can't say Santander should remove it from Ms C's credit file. And Santander's offer to accept a reduced payment contribution and write off the balance owed shows a positive and sympathetic approach to Ms C.

Ms C disagrees. She believes, since the payment proposal was made by her, it isn't right to give credit to Santander for this. She feels strongly that she'd made it clear to the bank from the start that she was disputing its charges. And she wasn't told that information would be recorded. So it shouldn't have spoilt her credit record. She feels that Santander could've communicated with her better. And it's responsible for this matter not being resolved sooner. So she wants Santander to compensate her for the adverse information still recorded on her credit file.

She's requested an ombudsman review so I am looking afresh at Ms C's complaint.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. And I appreciate that Ms C feels strongly about what's happened. But I agree with our adjudicator that, looked at overall, Santander has responded fairly and reasonably to her complaint. Here are the reasons why I say this.

It seems clear that, through no fault of her own, Ms C found herself having to deal unexpectedly with some very difficult circumstances. She hadn't had money problems before and she'd always managed her spending effectively. But when she slipped into an unauthorised overdraft, she found the bank's charges made her financial circumstances worse.

Lenders must respond positively and sympathetically to any customer in financial difficulty. So I've looked carefully at everything that's happened. My role is to look at whether Santander has acted fairly and reasonably towards Ms C in the particular circumstances she's had to deal with.

Our adjudicator has explained that it's been decided in court that it's generally not possible to challenge bank charges as being unfair or too high. And as far as I can see, it appears that charges have been applied to Ms C's account in accordance with the bank's standard terms and conditions. Santander must still treat fairly any customer who has financial problems and goes overdrawn. But this doesn't mean that it must cancel or refund all charges. In Ms C's case, as a goodwill gesture in recognition of her financial difficulties, Santander refunded more than £400 worth of fees it was entitled to charge her. And it agreed to write off a further amount if Ms C pays around half the outstanding balance - as she's offered to do.

There've been shortcomings in the way Santander has dealt with Ms C. I can see it continued to press her to phone the bank – when she'd already made it clear that this was difficult for her to do. And I can't see that it carried out any in depth enquiry into her financial situation. And I can see why Ms C feels it failed to communicate effectively with her about coming to some agreement to repay the disputed amount.

But, I don't feel I can fairly say that Santander has failed to treat Ms C positively and sympathetically overall. I think the fees refunds it has paid already, and agreed to make, are a generous and genuine attempt to settle Ms C's complaint. I can't fairly recommend Santander should make any further payment in these circumstances.

I completely understand Ms C's feelings about the information that's gone on her credit file. But, as long as information recorded accurately reflects the account history, it isn't unfair or unreasonable for a bank to record this information. So I don't find Santander has done anything wrong here.

I appreciate it's distressing for Ms C that this complaint hasn't been settled yet. And of course she's entitled to her own views about what's fair and reasonable here. But, I'd just like to take this opportunity to remind her that she can take steps herself to improve her credit record. The sooner she makes the payment she's already offered to do, then the more quickly her credit file can be updated with this information. And this will enable lenders to see that she's taken action to clear her debt.

my final decision

For these reasons, I simply leave it up to Ms C to decide if she'd like to reconsider Santander UK Plc's offer to write off the outstanding balance she owes if she pays it £203.15.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms C to accept or reject my decision before 6 August 2015.

Susan Webb
ombudsman