

summary of complaint

Miss F complains about unfair charges that Santander UK Plc (Santander) applied to her account over many years since 2009.

background

Miss F has held a bank account with Santander since 2006. For the majority of that time she held the same type of current account, apart from for a period of about a year between 2017 and 2018.

Miss F had an agreed overdraft limit on her account from around 2014. This was set at various levels and has been varied upwards or downwards a number of times, usually at Miss F's request. She has also asked for the overdraft to be removed from her account more than once over the years.

In October 2016, Miss F contacted Santander and asked it to remove her overdraft limit whilst cancelling direct debits that were no longer needed.

Between April and September 2017, Santander sent Miss F a number of letters to let her know that certain payments didn't go through, as she didn't have enough funds in her account. So, Santander told Miss F that she might be charged unpaid transaction fees as a result. It invited her to get in touch if she wanted help in managing her money to avoid charges.

Miss F went overdrawn and Santander's collections team wrote to Miss F in September 2017 to let her know that she was using an unarranged overdraft. As funds were then credited to the account, the collections team took no further action.

Around the same time Santander refunded a number of charges for unpaid direct debits, standing orders and other account fees as a result of Miss F contacting the financial assistance team. It also helped Miss F to change the type of account she had, but she later decided to switch back to the old type of account.

Miss F wrote to Santander in March 2019 and asked for a refund of all charges on her account over a 10-year period, as she didn't believe it had acted fairly given the financial difficulty she was facing. She also said Santander was in breach of the Lending Code.

Santander didn't uphold Miss F's complaint. It referred to a Supreme Court ruling on bank charges and said that charges applied to Miss F's account were fair and correct in line with the terms of her account. Santander invited Miss F to contact the financial difficulties team if she was struggling.

Miss F contacted our service and asked us to look into her complaint. The investigator felt that the charges applied to Miss F's account were in line with the terms and conditions. And that Santander had acted fairly when Miss F explained that she was experiencing financial difficulty. Miss F wasn't happy with the investigator's view, so the complaint has been passed to me to decide.

my findings

Miss F's complaint relates to events that span a ten-year period, some of which I have no power to consider. I've set out my findings in relation to that in a separate decision to Miss F. So, for the purposes of this decision, I'll be focussing on events from 2013 onwards.

And, I've now considered all of the available evidence to decide what's fair and reasonable in the circumstances of Miss F's complaint.

Miss F feels that Santander treated her unfairly by applying charges to her account at a time when she was already experiencing severe financial and other difficulties. And Miss F says that these charges were often the difference between her being able to meet other important household expenses and not. I do appreciate that this must have been a very difficult time for Miss F.

I can see that Santander responded to Miss F's complaint along the lines that a Supreme Court ruling found that charges applied to an account are considered part of the terms of the account and had been applied fairly.

I don't necessarily disagree with Santander's response. That's because the charges do seem to be broadly in line with the terms of her account and I'm satisfied that Miss F was aware of the likely charges, particularly if her account went overdrawn, or payments were returned without being made. But I don't really think that's at the heart of Miss F's complaint.

It seems to me that Miss F expected Santander to recognise her struggles much sooner and, having done so, to support her much more than it did. Miss F feels that Santander was in breach of The Standards of Lending Practice (previously the Lending Code) by applying charges to her account in the way that it did and she said that has led to her being in a cycle of charges.

I can appreciate Miss F's position in that she expects her bank to be supportive when it realised that she was struggling financially. The guidance and rules Santander needed to follow say that banks should have systems in place to monitor accounts and be able to recognise and support customers who might be in financial difficulty. They're also expected to act promptly to address the situation with the customer to avoid it getting worse. The support that banks can offer will vary depending on the individual customer's circumstances, so it's important that the bank listens to and acts upon information that the customer gives them, so that they can try to resolve the problem.

I've thought about what all of this means for Miss F's case.

The evidence clearly shows that over the years, Miss F relied on an overdraft that was set at different amounts. But I don't think that the fact Miss F was regularly using her overdraft or occasionally exceeding it, in itself should have acted as an alert to Santander that she was struggling financially.

And that's because it's not unreasonable to assume that where an overdraft has been arranged with a customer, they'd want to use it. And I think that's particularly relevant in Miss F's case, as her overdraft limits changed regularly- upwards and downwards usually at Miss F's request. And she sometimes asked for it to be cancelled all together, which may in fact have signalled to Santander that Miss F was in control of her account and finances.

Miss F says that she's had conversations with Santander over the years, but accepts that they didn't really go into a lot of detail about her financial difficulties. So, I've thought about whether Santander's actions were reasonable in light of what it's likely to have known about Miss F's situation.

I do think the fact that Miss F was regularly incurring charges from around April 2017 could have been an indicator to Santander that something had changed and that Miss F might have been struggling financially. And that's because Santander returned several payments unpaid because she didn't have enough funds in her account for them to be paid. And that led to her paying charges. But I've seen that Santander sent Miss F a number of letters telling her about the charges and asking her to get in touch if she needed help. So, I'm satisfied that Santander recognised there might have been a problem and tried to help Miss F to find a solution.

But there's no evidence to suggest that Miss F got in touch with the financial difficulties team until around September 2017. And at that point it refunded a number of charges to Miss F. Santander also helped Miss F to change the type of account she held to one with a different fee structure. But ultimately Miss F decided that it wasn't the right account for her and converted back to the old type of account. So, it seems to me that Santander's actions were reasonable at this point in light of what it knew about Miss F's situation.

I've considered whether Santander should have done anything more to support Miss F. And, after giving this very careful consideration, I'm not persuaded that it should.

It's clear to me that, despite her difficulties, Miss F really tried to stay in control of her account. And I think the evidence shows that. So, by refunding some of Miss F's charges, I feel that Santander was helping Miss F to try to get back to a position where she again felt in control. And the evidence shows that from around October 2017, she was certainly on the way to getting her account back on track.

I realise that Miss F has had a tough time financially, some of which was driven by difficult life events. But that doesn't mean that Santander did anything wrong. And, after very careful consideration, I do feel that Santander has tried to help Miss F through her difficulties where it could.

For those reasons, I won't be upholding Miss F's complaint. I realise Miss F is likely to be disappointed by this, but I hope she at least understands the reason for it.

my final decision

I don't uphold Miss F's complaint.

Amanda Scott
ombudsman