

complaint

Miss K complains that Santander UK Plc hasn't treated her fairly. She says that its actions have placed her in a cycle of charges – she's permanently overdrawn and the bank charged fees to her account which caused her great financial hardship. She says the bank should've done more to protect her because of her health issues. Miss K is represented by her father, Mr K.

background

The circumstances leading to this complaint, and my initial conclusions, are set out in my provisional decision from November 2018, a copy of which is attached and forms part of this final decision. In that decision, I explained why I was minded to uphold Miss K's complaint and I invited both parties to let me have any further representations.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Both Mr K and Santander confirmed that they'd received and read my provisional decision. And both parties confirmed that they accepted it.

In view of this, and the absence of any further information, I see no reason to depart from my provisional findings.

my final decision

For the reasons set out here and in my provisional decision, it is my final decision that I uphold this complaint and require Santander UK Plc to pay compensation as set out in the provisional decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 3 February 2019.

Andrew Macnamara
ombudsman

Copy of provisional decision

complaint

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background

Mr K says Santander knew about Miss K's severe financial difficulties but it hasn't treated her as it should've done. He says it's charged her thousands of pounds over the years even though it knows she's in financial difficulty and it knows her health means she's unable to manage her bank accounts on a day to day basis.

Santander rejected this complaint. It says that it reversed some of the account charges in 2011 and again in 2014 and that it wouldn't refund any further charges that have been applied to Miss K's account. The bank explained the steps it had taken to support Miss K in view of her situation but said it wouldn't do anything more.

Our adjudicator looked at this complaint and said she didn't think the complaint should be upheld. She explained that following Miss K's initial complaint, the bank had issued its *Final Response* in July 2014. This final response explained the bank's decision and told Miss K that she had six months in which to refer the matter to this Service. And because she didn't approach us until 2018, we wouldn't be able to look at a complaint about the events prior to July 2014 – we had no power to consider that part of the complaint – it had been referred to us too late. But she explained we could look at events that took place after July 2014.

She explained that the fees and charges added to the account after July 2014 had been applied in accordance with the account terms and conditions and that she wouldn't ask the bank to refund them. She said the bank had tried, unsuccessfully, to contact Miss K in June 2016, but it wasn't until October 2017 that Miss K contacted the bank to discuss things. Our adjudicator said she thought Santander had done enough to offer Miss K financial assistance and it had acted positively and sympathetically.

Mr K disagreed so the complaint comes to me to decide. He says the bank applied the charges "enthusiastically to the point it became unethical practice"; it "created a cycle of dependency"; and "it contributed to and benefitted from his daughter's health issues". He said the steps the bank took in October 2017 should've been taken much earlier; Miss K wasn't given any options in 2014 which would've stopped the charges and supported her at this time.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I hope that Miss K and Mr K won't take it as a discourtesy that I've condensed this complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint. Our rules allow me to do that.

Having considered the evidence, I'm afraid I have to tell Santander that I think it should've done more to help Miss K far sooner than it did.

The starting point here is that lenders have a duty to treat all customers, but particularly those facing financial hardship, fairly. And once the bank knew about Miss K's financial difficulties, it needed to respond positively and sympathetically.

Santander told us it met with Miss K and Mr K in October 2017 when they attended a meeting at her local bank branch. It says that as a result of discussions it had, it agreed a goodwill gesture of £150; it opened a *basic account* for Miss K – these type of accounts don't have any fees or charges associated with them and it isn't possible to run an overdraft either; and it completed the forms that mean Mr K can support Miss K by monitoring her account and keeping an eye on her finances. In November 2017, Santander also gave Miss K contact details for several organisations that provide free and independent debt counselling advice. So taking all this into consideration, I'm satisfied that Santander did what it needed to at this time.

My concerns, however, relate to the period prior to this; between July 2014 and October 2017. Miss K had been in difficulty for some time and I think that it's well documented in the banking records that Santander has. The bank's own records confirm that it was put on notice in 2014 that Miss K was suffering from stress and anxiety and wasn't able to manage her account on a day to day basis. I say this because the bank's own system records show it annotated Miss K's account with alerts confirming Miss K suffers with stress and that these were exceptional circumstances. And when it wrote to her in July 2014, Santander said it understood she suffered with stress and anxiety; struggled with day to day tasks; and found that managing her account had been difficult. But I can't see that Santander followed this up until June 2016 – nearly two years later – when it attempted to contact Miss K. It telephoned Miss K and when it couldn't reach her or leave her a voicemail message, the bank wrote to her as well.

I understand that Miss K didn't respond to either the missed call or the letter in June 2016 or the bank's subsequent attempts to contact her until the meeting she attended in the bank branch in October 2017.

At the moment, I don't think I can hold Santander responsible for what happened from June 2016 onwards. I say this because I'm satisfied it made a number of attempts to contact Miss K to discuss her situation and it isn't the bank's fault that Miss K wasn't willing to enter a dialogue with it until October 2017. But I do think Santander must take responsibility for the fact that it did nothing between July 2014 and June 2016 even though it knew about Miss K's situation and had marked its records accordingly. And although it's possible that Miss K may not have responded to any attempts by the bank to contact her sooner, it's also possible that she might've done. But either way I do think it's likely that the meeting in October 2017 which put in place a number of steps to support Miss K would've taken place sooner. And I'm going to ask Santander to refund the account fees and charges for the period July 2014 to June 2016.

For these reasons I'm proposing to uphold this complaint.

my provisional decision

Subject to any more comments and evidence that I receive by 12 December 2018 my provisional decision is that I'm thinking of upholding this complaint and ordering Santander UK Plc to:

- (A) reconstruct the account by removing all the fees and charges for the period 2 July 2014 to 30 June 2016. If the removal of these fees and charges means that any of the subsequent fees and charges applied after 30 June 2016 would not have been charged, then these should also be removed.
- (B) if that produces a credit balance for any period, credit interest on that balance for that period at 8% simple per year; and
- (C) send the consumer details of how the revised balance, the difference and any interest were calculated.
- (D) pay £100 compensation to Miss K for the distress and inconvenience caused in the way that the bank dealt with her at this time.

Andrew Macnamara
ombudsman