

complaint

Mrs B complains about bank charges applied to her current account by Santander UK Plc. She also complains the bank did not cancel direct debits when she requested it to do so and continued to call her when she asked it to write to her only.

background

Mrs B wrote a number of letters to the bank between June 2013 and November 2013 about bank charges applied to her account. Mrs B set out her financial difficulties, asked for details of the charges applied to her account, assistance, and for the charges to be refunded. In July 2013, Mrs B asked the bank to cancel all direct debits on her account. She also asked the bank not to contact her by telephone in September 2013.

The bank says it reviewed Mrs B's account and refunded charges debited in May 2013 of £70, cancelled fees not yet debited to the account of £170 and cancelled charges incurred between the last statement date and its decision letter in June 2013. It says it also gave details about collections and recovery and debt counselling organisations. It says it has assessed Mrs B's situation each time she has contacted it, but is unable to refund any further fees. It says interest and charges have been suspended on the account since October 2013, to give Mrs B time to contact it to discuss the account. It says, whilst Mrs B asked it to cancel her direct debits in July 2013, they were still leaving her account until September 2013. The bank apologised for this and says they have now been cancelled. As a result Mrs B incurred a further £470 in charges. It says it has refunded £275 and would arrange for a further £195 to be refunded. It also offered to pay Mrs B £100 for the inconvenience caused.

The adjudicator recommended the complaint should be partly upheld, but explained, in light of the 2009 Supreme Court ruling, charges could not be challenged because they were unfair or too high. And as the charges had been correctly applied to Mrs B's account, she did not consider the bank should refund them. She considered the bank had provided information on how to avoid charges and details of agencies that provided debt advice - together with refunding charges of £70. Yet the bank had failed to carry out Mrs B's instruction to cancel the direct debits, which resulted in further charges being applied. Further, the bank had only refunded £195 of the £470 it had agreed to refund, and Mrs B had also incurred a further £90 in charges. As a result of this service's involvement, the bank agreed to refund the further £275 and to increase its offer of compensation for distress and inconvenience to £200.

Mrs B doesn't accept that. She says the bank was aware how much money was going into the account and the charges debited. She says the bank should have initiated contact, rather than take a huge proportion of a vulnerable customer's income - and the bank was aware of her age and the type of benefits she received. She says the charges applied, in most cases, were far in excess of the amount overdrawn and it caused the overdrawn situation. And, as the bank had no process in place to consider these circumstances, it could be negligent for not giving due consideration. She says the impact of the bank taking her entire income has led to severe health problems. And the offer of £200 does not cover this. She says her complaint is less about charges and more about the bank's willingness to treat customers fairly and show due diligence. Mrs B says the bank did not adhere to the Lending Code and it should be charged £30 for every time it contacted her by phone.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I come to the same conclusion as the adjudicator for broadly the same reasons.

I understand my decision will come as a disappointment to Mrs B, who feels very strongly about this issue, but due to the 2009 court ruling, charges cannot be challenged because they are too high or unfair. I am satisfied that the charges were applied in line with the account terms and conditions.

Under the Lending Code banks are required to treat customers in financial difficulty fairly and sympathetically. And whilst the code says banks should consider reducing or stopping charges when there is evidence a customer is in financial difficulties, it does not say banks must do so. I appreciate Mrs B says the bank should have been aware of her income, age and vulnerability, but like the adjudicator, I would not expect a bank to be aware of all transactions into and out of a customer's account. And once Mrs B raised her complaint with the bank, it refunded some charges, provided information about debt counselling agencies and suspended further interest and charges, in October 2013, until Mrs B discusses a payment plan with it.

The bank did delay in cancelling the direct debits on the account - although it did explain in its letter to Mrs B in July 2013 that this was because it was required to complete additional security checks and did not have an up to date phone number for her on its systems. Because of this, it agreed to refund charges of £470 - but only refunded £195. It has now agreed to refund the balance of £275.

Mrs B says the bank also continued to contact her by phone after she asked it not to in September 2013. Whilst she says the bank should pay £30 for each time it called, this service is not a regulator and it is not our role to fine or punish banks. The bank has increased its offer for the distress and inconvenience caused to Mrs B to £200, which I find is fair and reasonable in the circumstances and I do not require it to do more.

my final decision

My final decision is that Santander UK Plc should:

1. pay Mrs B £200 for distress and inconvenience; and
2. refund £275 in charges.

Naseem Malik
ombudsman