

### **complaint**

Miss K complains that S Santander UK Plc is pursuing her for a debt that is time barred and legally unenforceable.

### **our initial conclusions**

Our adjudicator partially upheld the complaint. He considered that Santander's offer to refund £343.46 of charges, leaving a balance owing of £550.99, was fair and reasonable. He also recommended that it pay Miss K £75 for providing a poor service as it had not been able to show that statements had been sent. It agreed but Miss K rejected the offer, saying the debt was time barred.

### **my final decision**

To decide what is fair and reasonable in this complaint, I have considered everything that Miss K and Santander have provided.

Miss K says her complaint is not about whether the debt is owed but that it is unenforceable as it is time barred. But the bank says that it is seeking to recover money owing on the joint account following a transfer made on 21 April 2008. As such, and notwithstanding the dispute about the circumstances of the transfer, I am not persuaded that any debt arising on that date is unenforceable as being time barred or that the bank is not entitled to take steps to recover the money it says is owed, as it has done. Furthermore, I am satisfied that Santander's offer to refund some charges – reducing the alleged debt to £550.99 - and pay £75 compensation for its poor customer service is fair.

My role as an ombudsman is to consider the individual complaint and decide whether something has gone wrong. But a court may take a different view of the situation; if she does not accept my decision, Miss K will be free to pursue her arguments – including those about the application of the Limitation Act 1980, the enforceability of the debt and, if necessary, her liability for the transfer and resulting debt - in any court action that may arise, if she so wishes.

**My final decision is that I partly uphold this complaint, as more fully set out overleaf.**

**Under the rules of the Financial Ombudsman Service, I am required to ask Miss K either to accept or reject my decision before 30 May 2013.**

*Stephen Cooper*

*ombudsman at the Financial Ombudsman Service*

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

#### **ombudsman notes**

In full and final settlement of this complaint, I order Santander UK Plc to:

1. Refund to the joint account the sum of £343.46 (leaving a balance owing of £550.99);  
and
2. Pay Miss K £75 compensation.

#### **what is a final decision?**

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

#### **what happens next?**

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer must sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision and returns the signed acceptance card to us before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.