

## **complaint**

Mr G complains that he was mis-sold a Premier packaged bank account by Alliance & Leicester Plc (A&L). Santander UK Plc are responding to the complaint on A&L's behalf.

## **background**

Mr G held a Premier Account with A&L between 2007 and 2010. It offered European travel insurance as a benefit. There was no fee for the account as long as £500 was paid into it on a monthly basis. If £500 was not deposited, a £5 "underfunding fee" was applied. Mr G says he was called by A&L and asked to upgrade on the phone. During the call, Mr G says he wasn't told about the fees connected to the account, in particular the underfunding fee.

Santander's response was that the account had been opened as a Premier Account online in 2007 by Mr G. They added that during the online application process, Mr G would have seen information about the underfunding fee because such information was included in the terms and conditions. Unhappy with this response, Mr G complained to our service.

Our adjudicator didn't recommend we uphold Mr G's complaint. She thought Mr G agreed to upgrade online and that he was given information about the charges connected to the Premier Account. Mr G disagreed with this opinion, so the complaint was passed to me. In August 2015 I issued a provisional decision. The following are excerpts from my provisional decision which form part of this final decision.

*"I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.*

*Based on the information I've seen I think Mr G chose to open the account online. I know that he says his existing account was upgraded on the phone, but the other information available doesn't indicate this. I have been provided with screenshots from Mr G's banking records and they show that the Premier Account was opened in 2007 over the internet – so online. Also, Santander have told us that Mr G opened a savings account online and have provided us with a copy of what looks like an online application form. So taking into account the form, which indicates that Mr G was completing some of his banking online, and the screenshot, which states that the Premier account was opened on the internet, I think Mr G did choose to open the Premier Account himself.*

*I don't think the account was recommended to Mr G, but A&L still had to give him enough information about the account to enable him to decide if it was right for him. Santander say that when Mr G opened his account online he would have seen the account terms and conditions. These, they say, would have provided him with the information he needed about the charges connected to the account which included the underfunding fee. But Santander haven't been able to provide me with copies of the documents Mr G would have seen online. This means I can't know how clear the terms and conditions were or when during the online application process Mr G would have seen them. Because of this it's possible that Mr G didn't get all the information he needed about the account, including information about the underfunding fee.*

*I've looked through Mr G's account history and can see that his packaged account was in credit most of the time it was open. Mr G often deposited large amounts of money into his account, but in around December 2008 he stopped regularly doing this and began to incur the £5 fee. I've thought about whether Mr G would have acted differently if he had definitely*

*got the information he needed about the account and known about the underfunding fee. I still think he would have taken out the account because he seems to have been interested in what it offered. But based on what I know about Mr G's circumstances (which includes the income reflected in his statement) I think that had he known about the fee, he would have paid the required £500 a month into his account in order to avoid paying it. So I intend to uphold Mr G's complaint about the fee.*

*Mr G has made another point about unarranged borrowing fees. By early 2009 his account was regularly overdrawn (although the amounts were mostly quite small). As Mr G had no arranged overdraft he was charged daily fees for unarranged borrowing. Mr G believes that it was the £5 underfunding fee that caused his account to become overdrawn. I've had a look through his statements though and can see it wasn't the underfunding fee that initially caused Mr G's account to become overdrawn. The cause was a regular direct debit to another bank for around £20 - £30 a month. Also, it seems likely that Mr G would have been charged fees for unarranged borrowing whether he had a packaged account or not. Such fees are quite common and I think Mr G would have known that he would be charged for withdrawals that were above his overdraft limit."*

### **response to my provisional decision**

Mr G and Santander didn't provide any more information.

### **my findings**

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I think the fair and reasonable outcome of this complaint remains as outlined in my provisional decision.

### **what Santander should do to put things right**

Santander should put Mr G back in the position he would have been in if nothing had gone wrong. To do this they should refund Mr G all the £5 underfunding fees he was charged on his Premier Packaged bank account. They should also add 8% interest per year simple on each of the £5 fees from the date Mr G paid those fees to the date he gets the money back.†

†HM Revenue & Customs require Santander to take off tax from this interest. Santander must give Mr G a certificate showing how much tax it's taken off if he asks for one.

### **my final decision**

I uphold Mr G's complaint about the underfunding fee and require Santander UK Plc to pay him compensation as outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 6 November 2015.

Tope Adeyemi  
**ombudsman**