

## **complaint**

Miss D complains that Santander UK Plc upgraded her account without her knowledge and applied interest and charges in respect of an unauthorised overdraft.

## **background**

Miss D opened an account with Santander in 1999 when she was 16. The account was automatically upgraded by Santander when she was 18, to an everyday current account, with different terms and conditions. Miss D went abroad, and says she was unaware she had spent the money in her account, and gone into an unauthorised overdraft. Santander had then applied the charges and interest, over a period.

Our adjudicator did not recommend that the complaint be upheld. She found that Miss D had been informed about the account upgrade, the charges that had been incurred were in accordance with the terms and conditions which applied to the account, and so Santander had done nothing wrong. Our adjudicator explained that a Supreme Court ruling in 2009 held that current account charges cannot be challenged on the basis that they are unfair or too high, and there was no exception made for financial hardship. Miss D disagreed. She says she was not told of the account upgrade when she was 18, and she had not received any statements or letters because she was abroad. Finally she felt that Santander had not responded sympathetically to her in all the circumstances.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I come to the same conclusions as our adjudicator.

When the Santander account was opened by Miss D, the terms and conditions provided for an automatic upgrade to an everyday current account, when she was 18. So Miss D was aware that the account would be upgraded. Miss D accepts this was the case. Santander says it sent full details to Miss D of the upgraded account when that occurred, which was before Miss D went abroad. Miss D says she never received this. But as she knew at the outset about the account upgrade, this is sufficient.

Santander says £40 was paid into Miss D's account in December 2011, but there were already pending charges due to an earlier unarranged overdraft. These would have shown on the monthly statements it sent to her. Miss D then made a further card payment, which debited the account after charges had been applied, leaving the account £90.47 overdrawn. No further credits were made to the account, so further charges were applied. Miss D says it was her Mother who paid £40 into the account. In my view it does not matter whether it was Miss D or her Mother who paid money in, the fact is this was insufficient to put the account in credit. Over time due to charges being applied because the account was overdrawn, the outstanding balance increased to £420.23.

Santander says it's Collections and Recoveries team sent numerous letters to Miss D at her home address throughout 2012, to tell her the status of the account. Miss D did not respond for over a year. In March 2013, she responded and confirmed she was back in the UK, had a new job and would make an arrangement to repay the balance. Santander had also sent monthly statements, alerting Miss D to the charges and interest it had applied. Banks and building societies are not obliged to refund charges that are applied in line with the

terms and conditions of an account. If an account is overdrawn or exceeds an agreed overdraft limit, even by a small amount, or there are insufficient funds to meet a payment, then the bank is entitled to make these charges. As the adjudicator says the charges cannot be challenged as being too high or unfair. So I am unable to find that Santander has done anything wrong.

I am aware that Miss D says she did not receive the statements or the letters as she was abroad. Even though Miss D was abroad, it is still her responsibility to monitor her account balance, and to make alternative arrangements so that she can do so whilst away. Santander got no response from Miss D as charges mounted, and therefore the account was finally passed to external agents for collection. In the absence of any communication from Miss D, Santander has not acted unreasonably. When Miss D did return from abroad, she told Santander that she would make arrangements to pay the debt. Santander is entitled to repayment and I have seen no evidence that it has behaved unsympathetically. I know that Miss D will be disappointed by my decision.

### **my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 30 December 2015.

Janine Allen  
**ombudsman**