

The complaint

Mr W complains about a joint current account he has with Santander UK Plc.

What happened

Mr W has a joint account with his ex-partner provided by Santander. The relationship between Mr W and his ex-partner broke down; however, they kept the account open for household related bills. Mr W has told this service that he has been a victim of domestic and economic abuse – and that Santander's actions have contributed to this.

In February 2020, Mr W got in touch with Santander to let them know that there was a dispute between the parties and that his ex-partner had been spending on the account without his consent. Mr W wanted to know if he would be liable for the transactions his ex-partner was making. A representative of Santander told Mr W that it would be able to identify the transactions made with her card, and that he wouldn't be liable for any spending made by his ex-partner. Mr W was told during this call that he could place the account 'in dispute' which would prevent any further spending on the account from either party. But Mr W didn't want to do this at the time.

Mr W contacted Santander a couple of days after this conversation, and he was informed that the information he got during the previous call was incorrect, and that both parties would be jointly liable for any spending on the account. To say sorry for the incorrect information he was given, Santander paid Mr W £50. However, Mr W was also told on this call that he could prevent further spending on the account by putting it into 'dispute'.

Mr W then contacted Santander again in March 2020. He said that an ongoing police matter between the parties had now been resolved and he was now able to deal with the joint account. Again, Mr W let Santander know about the dispute between the parties, and that his ex-partner was spending on the account without his consent – when the purpose of the account remaining open was for household bills that they were both responsible for.

Santander again gave Mr W the option of putting the account in dispute. It let him know that by doing this would prevent additional spending on the account by either party. Mr W was told that if he were to do this, direct debits couldn't be amended without them both agreeing to it. But that ultimately, the only way to stop further actions on the account without the other persons knowledge was to put it in dispute. Mr W declined to do this again, but said he'd make some amendments to the direct debits and call back in a couple of weeks to put the account in dispute.

In April 2020, Mr W noticed that an overdraft had been applied to the account by his ex-partner. Immediately after the overdraft was granted, his ex-partner transferred some funds out of the account, which left the account in the arranged overdraft, of around £350.

Mr W then contacted Santander about this. He didn't think it was fair that his ex-partner could go ahead and be accepted for an overdraft on the joint account without his consent. To avoid any further spending, direct debt changes, or overdrafts being granted, Mr W requested that the account was put in dispute.

Shortly after the account went in dispute, Mr W contacted Santander again because he was unable to access the account online, so he couldn't see any of the account's transaction information. During the call, Mr W found out that his ex-partner had been able to cancel the direct debits leaving the account, even after it had gone into dispute. These direct debits were reinstated on the phone call.

Mr W complained about this to Santander and they paid him £350 to apologise for telling him he'd be able to access the account when he wouldn't be able to once it was in dispute, and for allowing the direct debits to be cancelled even after the dispute was in place.

Mr W remained unhappy with what had happened and complained to this service. Mainly because he felt that his ex-partner shouldn't have been able to apply for an overdraft facility when Santander were aware of the dispute and that he shouldn't be jointly liable for the outstanding amount now left on the account.

Mr W has also stated that Santander have been reporting late payments markers to his credit file because the debt on the account hadn't been repaid.

Our investigator looked into things for Mr W but they didn't uphold the complaint. They felt that the £50 Santander offered Mr W for the wrong information about his ex-partner being liable for the spending on the account was enough – this was because the correct information was given to him only a few days later. They also found that Mr W was given the option of putting the account into dispute on a number of occasions, and because Mr W had declined to do this, they didn't think Santander had done anything wrong by allowing his ex-partner to apply for an overdraft facility. The investigator agreed that Santander shouldn't have allowed the direct debits to be cancelled after the account went into dispute, and that Mr W wasn't able to access the account when he was told he would – but the investigator thought that the £350 Santander had already paid was enough to settle things here.

Mr W responded to our investigator to say he was unhappy with the outcome. He agreed with the compensation amounts that Santander had paid him were enough for the things it said it had done wrong. However, he still didn't think that it was fair of Santander to agree to the overdraft, given what it knew about the dispute, and he didn't think he should be liable for the outstanding debt. Mr W also didn't think it was fair that Santander continue to report adverse information about him in relation to the account to the credit reference agencies. Because Mr W didn't agree, the complaint has been passed to me to make a decision on the matter.

What I've decided – and why

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

Based on everything I've seen and heard; it is my decision not to uphold Mr W's complaint. I appreciate this will come as a disappointment to him, however I will explain my reason for this below.

I've read and taken into account all of the information provided by Mr W and Santander parties, in reaching my decision. Both parties have sent this service a lot of information for me to consider during the course of this complaint. If I've not reflected something that's been said in this decision it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't

think it's necessary to get an answer, or provide my own answer, to every question raised unless it's relevant to the crux of the complaint.

Clearly there has been a dispute between Mr W and his ex-partner in relation to this account. I want to make it clear that I can't address any issue that relates to the civil dispute between them. And I won't be able to make any finding that could impact Mr W's ex-partner, as she is not party to this complaint. What I will be looking at though is whether Santander has treated Mr W fairly, and for the reasons I'll go onto explain, I think it has.

Mr W and his ex-partner opened this joint account together. The terms and conditions that apply to the account state that the account can be used independently by either party. What this means is that either party can carry out actions on the account without needing the consent of the other party. And they are both jointly and severally liable for the account.

Mr W did contact Santander on a number of occasions to let it know about the dispute between the parties. And so, I'm satisfied Santander was aware of what was happening between the parties. And on each occasion, Mr W was told that the only way further spending on the account could be stopped was by placing the account into a dispute – however this would limit both parties from being able to use the account or make changes to direct debits. Each time Santander explained this process, Mr W declined to do this.

I can understand why Mr W might not have wanted to place the account in dispute – as by doing so would also prevent him from being able to use the account how he might have wanted to. But I'm satisfied that Mr W was aware that by not doing this it would mean that his ex-partner could continue to use the account freely.

I don't think I can agree with Mr W that it was unfair of Santander to approve the overdraft facility – even though it had the knowledge of the dispute. Mr W had declined to have the account restricted on a number of occasions, but this meant that either party could still carry out any action they wanted to without the other person needing to consent. While Mr W might find this to be unfair, Santander were very clear with him on a number of occasions the option he had to stop something like this from happening.

While I appreciate Mr W's comment that he wasn't aware his ex-partner could apply for an overdraft, I think he was aware that there weren't any restrictions on the account. So either party could essentially operate the account as they wanted to. When the account was initially opened, it had an overdraft facility, so I think Mr W would likely have been aware that the type of account him and his ex-partner held could have an overdraft. I think it's just likely that he didn't expect his ex-partner to have requested something like this.

Given that there were no restrictions on the account (at Mr W's request) at the time Mr W's ex-partner applied for the overdraft, I don't think Santander acted unfairly by approving this. I can see that Mr W also attempted to make changes to the overdraft too, which were done without his ex-partner's consent (albeit after the overdraft had already been granted). And so, I think Santander have allowed both parties to carry out actions on the account in line with the terms and conditions – which is as I'd expect when the account hasn't been placed in dispute.

The terms and conditions of the account mean that both parties are jointly and severally liable – and so both parties are liable for the outstanding debt which remains on the account. Any dispute about how this should or shouldn't be split would be a civil matter that I've already explained I won't be commenting on.

Santander has the responsibility to report accurate information about how someone has managed their account to the credit reference agency. Mr W hasn't made any payments

towards the debt owing on the account and so I think it was fair that Santander has continued to report this.

I know Mr W thinks this is unfair because of this ongoing complaint, and that he was waiting for an outcome before he took any further action. But I can see that Mr W has been told that he'd need to continue to maintain the account even while his complaint was ongoing. It is clear that his credit file has been impacted as a result, but given that no payments have been made to the account, and Mr W is jointly and severally liable for the debt, I don't think Santander has done anything wrong in reporting this information given that it is an accurate representation of how the account has been managed.

Mr W has already said he's happy with the level of compensation he has received from Santander for the things it got wrong. And I agree that what it has offered is appropriate. The issue with the incorrect information being provided was rectified a couple of days later and doesn't appear to have caused any financial loss. And the direct debits that had been wrongly allowed to be cancelled were reinstated without any payments being missed, so again I think the impact here was minimal.

I do think that Santander did give Mr W other misleading information though. For example, I don't think its message to Mr W about how the account could be closed was clear. For example, I have heard on one call that he was told both parties needed to go to a branch to do this, when actually, it could be closed by either party as long as there wasn't a debt owing on the account. However, I don't think this means that Mr W should get more compensation.

While it is my view that the information I gave Mr W wasn't clear, when Mr W did have the correct information about this, he didn't close the account at this point, and it still remains open. I don't think clearer information would have led to Mr W closing the account – I say this because he was reluctant to put the account into dispute, and he still wanted it open to pay joint bills.

So, based on everything I've said above, while I agree that Santander could have done better in some areas, I think Mr W has been fairly compensated for these issues. I don't think Santander have acted unfairly or unreasonably by allowing the overdraft on the account – or in reporting late payments to the credit reference agencies. And so, it follows that I don't uphold Mr W's complaint.

My final decision

For the reasons set out above, I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 8 April 2022.

Sophie Wilkinson
Ombudsman