

## **complaint**

Ms Q complains that Santander UK Plc (previous Alliance & Leicester) allowed her estranged husband to withdraw money from their joint savings account and is asking her to repay a debt that he ran up on their joint current account.

## **background**

Ms Q says her now estranged husband needed a current account in 2006. She agreed to be a joint account holder but she has her own current account and so never used this one. A savings account was granted automatically and she did eventually put some of her savings into this account.

In early September 2009 Mrs Q's relationship with her husband broke down. She says she was worried her husband might try to withdraw money from the savings account so she contacted the bank. The bank assured her the money could only be transferred into the joint current account and, as a result, she would know if her husband tried to move the money and could stop any inappropriate transfers.

Soon after, she found out that her husband had opened a new, sole current account with the bank. And it had wrongly allowed £3,600 to be moved from the joint savings account straight into his new current account.

She complained to the bank but it did not investigate her concerns immediately. Eventually, in 2011, it agreed to refund a number of fees and charges that had been applied to the joint current account but it said Ms Q must repay the remaining overdrawn balance – a little over £1,000.

The bank did not agree to refund the money taken from the savings account. It said there was no account freeze in place when the transfer was made and so Ms Q's husband was entitled to move the money. Ms Q was not satisfied with the bank's reply so referred a complaint to this service.

Our adjudicator did not recommend that the complaint should be upheld. He was not persuaded Ms Q had asked the bank to block the accounts at the point her estranged husband made the transfer. And he was satisfied Ms Q was jointly and severally liable for debt arising from the current account. Ms Q did not accept the adjudicator's findings and provided copies of telephone bills showing that she had contacted the bank before the money was moved from the savings account.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – that is, what I consider is most likely to have happened in light of the available evidence and the wider surrounding circumstances.

*should the bank have refused to allow Ms Q's estranged husband to move money out of the joint savings account?*

Ms Q suggests that her relationship with her husband broke down irrevocably towards the beginning of September 2009. And she has given us copies of telephone bills which show she made four telephone calls to the bank between 22 and 29 September.

It is not possible for me to know for certain what was discussed during those phone calls. But the first record the bank made about placing a freeze on the accounts was dated 28 September 2009. And, by that date, the money had already been moved out of the savings account.

I appreciate the current account terms and conditions say that a savings account would be opened at the same time as the current account. And that payments into and out of the savings account can only be made via the current account. So I agree it was wrong of the bank to allow Ms Q's husband to move money from the joint savings account to any account other than the linked, joint current account.

However, there was no account freeze in place when Ms Q's husband moved the money. So he could quite easily have moved it first into the linked current account and then immediately on to his new account. Overall I am not persuaded Ms Q would likely have been able to prevent the movement of this money, even if the bank had insisted the joint current account be involved in the transfer process.

Even if I were to find that the bank should have placed a freeze on the accounts sooner, it is not for me to say who rightfully owned the money that was in the joint savings account. It seems to me the matter of ownership would be better dealt with as part of Ms Q and her husband's divorce settlement.

Having said that, I see the bank recorded that Ms Q got in touch in October 2009 and said £600 of the money in the savings account was hers. And, with that in mind, it may be helpful if I confirm that the savings account is still open and the balance stands at over £730. Santander can give Ms Q more information about the withdrawal process. But I understand the bank will likely need both her and her estranged husband to prove their identities and give their joint, written authority for any withdrawals.

*should Ms Q have to repay the debt that arose from the joint current account?*

I accept Ms Q may have her own, sole current account and may not have used this joint current account much (if at all) since it was opened in 2006.

However, the account was opened in joint names and the current terms and conditions say that when a joint account is held the bank will act on the instructions of any one of the parties to the account. But each party will be responsible for all transactions carried out and for the repayment of any borrowing which arises on the account. I do not have the terms and conditions applicable at the time the account was opened but, in my experience, this is generally the way joint accounts have been operated over the years.

The bank has shown that the joint current account debt was run up largely before Ms Q's relationship with her husband broke down. And the bank has already refunded over £200 worth of charges that were applied since then.

In the circumstances, I do not consider it unfair of the bank to hold Ms Q responsible for repaying the overdraft debt.

**my final decision**

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

Ruth Lewis  
**ombudsman**