

complaint

Mrs P and Mr P complain about Santander UK Plc ("Santander") regarding unauthorised overdraft fees. Mr P feels that the business should have informed him that his mother had fallen into a cycle of incurring unauthorised overdraft charges. They want Santander to refund the unauthorised overdraft charges which were accumulated over nearly 10 months.

background

Mrs P held an account with Santander for some years.

In late 2012 Mrs P's son, Mr P, applied to be added to her account as a joint account holder. This was because they wanted Mr P to be able to access funds in the account in the case of an emergency.

This application was granted and Mr P was added to the account.

In mid 2017, Mrs P went into an unauthorised overdraft, causing her to incur charges.

These charges were deducted during the following month, causing her again to go into an unauthorised overdraft and incur further charges.

This continued to happen each month until March 2018, when Mr P became aware of the charges. He then took action to re-order the account and no further charges were incurred. Santander and Mr P updated the notification details for the account so Mr P would receive text alerts after this.

Santander waived the charges for March and, as a goodwill gesture, refunded the charges that related to February.

Mr P complained to Santander. He said that he felt that the bank had failed in its duty of care to his mother, as she attended her bank regularly and had not been made aware by branch staff of the charging cycle. He thought that the bank staff could have discussed her account with her and prompted her to address it. He also felt that the bank had failed in its duty to him, as he had not been directly contacted, despite being a joint account holder.

Santander issued its final response letter to Mr P in March 2018. This did not uphold the complaint and said that because a goodwill gesture had been issued to Mr P already it was unable to offer any further gesture. The letter said that it had now added notes to the account that Mrs P was vulnerable, so as to alert branch staff to devote more time to Mrs P in future.

Mrs and Mr P were not happy with that response and contacted us.

One of our adjudicators has looked into this matter and set out his view to the parties. This was that there was evidence that Santander had sent out statements showing the account activity and charges, and these were addressed to both Mrs and Mr P at the address they shared. He therefore thought that the business had acted reasonably and he did not recommend that the business do anything else in relation to the complaint.

Mrs and Mr P were not happy with that view and asked for an ombudsman decision.

my findings

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

I very much understand why Mrs and Mr P are upset, and can appreciate that the charges incurred were significant, especially when compared to the small amounts by which the account went overdrawn. I also understand Mr P's upset that, despite being added to the account in order to help safeguard Mrs P's interests, he had not been prompted to intervene when Mrs P fell into this negative cycle.

I note that when Mr P contacted Santander in March 2018 he advised them that his mother was vulnerable. This does not appear to have been reported on the account before this.

I appreciate that Mr P was added to the account in case of emergencies, but that was in 2012 and notes are not available of what Santander was told at the time regarding vulnerability. Mr P does not appear to have had cause to access the account regularly since that time and on that basis I think it unlikely that Mrs and Mr P considered Mrs P particularly vulnerable in 2012 or for some time afterwards.

Santander has provided evidence of its terms which permit it to apply charges for unauthorised overdraft use. These show that the charges were applied in line with the account terms. It has also provided evidence of statements that were sent to both Mrs and Mr P, during the period, at the address they shared. These statements detailed the account activity, showed that the account had gone overdrawn and gave pre-notification of charges to be deducted the following month.

Mr P has said that he feels that he should have been notified of the charging separately, and that it is not sufficient to only mention this sort of cycle within normal statements.

I am afraid I do not agree. It is customers' responsibility to ensure that they keep within their account limits and to monitor their balance regularly. Sufficient information was included in the statements to enable Mrs and Mr P to address the negative cycle and I think that Santander acted reasonably in only sending one copy of the statements to the shared address.

Santander has also provided evidence that Mr P contacted Santander in 2016 and queried some account charges, which were refunded at that time. I therefore think that Mr P was aware from that point onwards that charges may be incurred on the account if it exceeded its limits, and that there was a need to check the balance regularly.

So whilst I sympathise with Mrs and Mr P over the level of charges that were incurred, I think it was Mrs and Mr P's responsibility to monitor the account balance regularly to ensure that charges were not continually incurred.

As a result, whilst I understand this will be disappointing to Mrs and Mr P, I agree with the adjudicator's view and do not uphold the complaint.

my final decision

For the reasons set out above, I do not uphold this complaint and do not ask Santander UK Plc to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 8 April 2019.

Laura Garvin-Smith
ombudsman