

complaint

Mrs K complains that Santander UK Plc allowed numerous accounts to be set up fraudulently in her name. The accounts were a credit card, personal loans, a re-mortgage and an overdraft on a current account and the bank accepts that the fraud was carried out by Mrs K's husband.

background

Santander agreed to write off the balance on the credit card account and closed it. The bank also removed Mrs K's name from the existing loan and stated that it would no longer hold her responsible for it. It also made arrangements to remove traces of all loans involved and the credit card from the credit file. Our adjudicator was satisfied that the bank had acted appropriately in respect of those accounts.

However, in relation to the disputed mortgage amount, the adjudicator considered it would not be fair and reasonable to ask the bank to take any action similar to that taken in respect of the other accounts. He noted that one of the owners of the property benefited from monies in dispute, and the bank was entitled to retain the property as security for the lending; it being the solicitor's responsibility to distribute the funds accordingly on any future sale of the property. Santander had agreed to add a warning message regarding the dispute to Mrs K's mortgage account though.

As regards the overdraft on the current account, Mrs K had stated that she gave her husband permission to use the account many years ago and that he took charge of the finances. Mrs K said she had no reason to suspect him of doing anything untoward with those finances and therefore the adjudicator did not consider Santander should be required to not hold Mrs K responsible for the outstanding balance on the account – he was satisfied that she gave her husband permission to use the account, this effectively including making a request for overdraft facilities. Despite Mr K being in total control of the account, the arrangement did not stop Mrs K being responsible for it.

Santander had agreed to pay Mrs K £200 compensation for aspects of how it had dealt with her though and the distress and inconvenience caused.

Mrs K has asked for her complaint to be reviewed by an ombudsman.

my findings

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

Mrs K has questioned how the overdraft came to be agreed. She is also now seeking to question what transactions have taken place to make use of the overdraft. However, Mrs K had authorised her husband to use the account, and the facilities that attached to it – such as a potential overdraft, and there is no suggestion now that the account was used by anyone other than Mr K. The overdraft facility was offered some time ago and it has been maintained to all parties' satisfaction since then, and as it is not disputed that the account was only used by Mr K - with the agreement of Mrs K - I do not consider that there is any basis on which I might fairly and reasonably require the bank to write off the debt created by spending from the overdraft.

As regards the mortgage account, I also agree that the bank need take no further action beyond what it has done. I accept that Mrs K's signature was forged by Mr K but it remains that lending was provided in the joint names of Mr and Mrs K and although it is argued that only Mr K benefitted from the loan, the residual funds, that remained after the existing mortgage was repaid, were paid into Mrs K's sole account – albeit which Mr K had control over.

And while Mrs K may not have wanted to take the re-mortgage, funds were lent, which Mr K was in receipt of, and the bank holds security for that lending which Mr K has an interest in. I have to decide what I consider to be fair and reasonable in the determination of a complaint and given all the circumstances of the re-mortgage being granted, I do not consider it would be fair and reasonable for me to require the bank to write-off that lending or convert the lending into unsecured lending in Mr K's name only. And it would not be appropriate for the bank to be required to convert the secured lending into Mr K's name only, given Mrs K's joint ownership of the property.

As far as any financial disadvantage to Mrs K is concerned as a result of the re-mortgage arrangement, ultimately, it is a matter for Mr and Mrs K to resolve between them as to how they each hold value in the property and also as to how funds realised by the property's sale are ultimately divided, presumably taking into account any such financial disadvantage suffered.

In light of what I have said, I do not consider that I can fairly and reasonable require the bank to take any action in respect of the re-mortgage arrangement or the overdraft. And, I note that the bank has made an offer of £200 compensation for those aspects of its dealings with Mrs K that were inadequate but I do not consider that the bank need pay any greater amount for that either.

my final decision

My final decision is that I make no award against, or direction to, Santander UK Plc.

Ray Neighbour
ombudsman