

complaint

Mrs P complains about the policies and practices of Santander UK Plc in relation to registering powers of attorney.

background

Mrs P is represented in this complaint by her son Mr P. Mr P is concerned about the information Santander asked him to provide before it would act on his lasting power of attorney (LPA) for his mother. He also complains that the bank's information requirements are not GDPR compliant and that by default the bank uses customer details for marketing purposes. Mr P further complains that Santander initially refused to register his complaint about these matters.

Mr P wished to close his mother's Santander account, and the bank asked him to complete its standard LPA registration form first. But Mr P answered only those questions he considered the bank was entitled to ask. Santander said it wouldn't register the LPA until Mr P had fully completed the form.

Mr P rang the bank to say that in the absence of an explanation, Santander had no legitimate reason for requesting some of his personal information. He said the bank's form was not GDPR compliant and that it shouldn't be necessary for applicants to tick a box to opt out of the bank's marketing activities.

During the phone call Mr P asked to register a complaint, which the adviser refused to do. In summary the adviser said that an objection to the bank's procedures (as Mr P's was) wouldn't be regarded as a complaint, but she would feed his concerns back to the relevant team. When Mr P asked to speak to someone else the adviser consulted other bank staff and then agreed to record Mr P's complaint.

Santander replied saying in essence that it had done nothing wrong and that it still required Mr P to provide the information he had thus far failed to do before it would register his LPA.

Mr P was dissatisfied with this response and he brought his complaint to us.

Our investigator considered the key issue to be whether Santander could demand the information Mr P had refused to provide before it would register his LPA. And her view was the bank wasn't at fault. She commented that banks are entitled to determine their own policies and procedures in this regard, and that as we aren't the regulator we don't have the power to tell banks to change these.

Commenting on Mr P's complaint that Santander had acted obstructively by refusing to record his complaint, our investigator noted that although that was the adviser's initial position she did in fact record his complaint during the same phone call. Our investigator therefore considered the bank to have acted fairly.

Mr P was unhappy with the investigator's view and requested an ombudsman's decision. In doing so, and in summary, he reiterated points he had made previously and said that he had now, with reluctance, provided the bank with the information it needed by letter but Santander was still refusing to register his LPA.

my findings

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

Mr P's main complaint is that Santander is asking for information about him (e.g. country of birth, employment status and country of tax residence) that is unnecessary for it to register his LPA. He says he isn't a Santander customer, and doesn't want to be one, and is only seeking to close his mother's account. For this purpose he says Santander doesn't need some of the detail it's asked him to provide, and furthermore other banks haven't asked for it.

I've no doubt this whole process has been a difficult experience for Mr P when he is trying to look after his mother's affairs. I also accept that he has been left frustrated by Santander's approach compared to the approach taken by other businesses in registering a LPA. But I must make it clear to Mr P that we are not the regulator of banks and building societies; this role falls to the Financial Conduct Authority. And in so far as we do have a role to play here, I think it's up to a business to decide on its approach to registering LPAs based on its interpretation of the various rules and requirements to which it must adhere.

Santander has decided it requires all applicants to complete a standard form, which it uses to set up the applicant's profile. Mr P plainly feels that the bank shouldn't need some of the information it is requesting. And whilst I recognise Mr P's strength of feeling on this matter, I'm afraid that my judgment is that it is for Santander to determine its own information needs in this regard.

Overall I don't think that Santander has acted unfairly or made a mistake in asking Mr P to complete its LPA form. Mr P says he's now sent the bank the omitted information by way of a letter and I infer from this comment that Santander hasn't accepted this and still requires him to complete the form. Although Mr P presumably considers that the bank is being pedantic, once again I'm afraid this is a decision that Santander can legitimately make. If it needs the applicant fully to complete the form, rather than complete it in part with other information provided some other way, then I cannot reasonably require it to do otherwise.

Mr P also complains that the bank's form and procedures are not GDPR compliant. Santander has looked at this and said it believes Mr P to be wrong. As I think this service has already told Mr P we have no remit in this matter with decisions on this type of complaint falling to the Information Commissioner's Office to determine. This applies equally to Mr P's complaint that unless applicants tick a box on Santander's form the bank's default position is that it can use information provided for marketing purposes. Mr P believes applicants shouldn't be required to opt out of marketing activities.

Mr P says he believes the bank acted obstructively during his phone call by refusing to record his concerns as a complaint. Santander has apologised for this and said that although that was the adviser's initial response, she did in fact record his complaint during the same phone call. Santander has said that it has given relevant feedback to those involved.

And so whilst I understand Mr P's frustration about the adviser's initial response, I'm satisfied that Santander has done enough to put matters right.

In summary therefore, I'm afraid that I'm unable to uphold Mr P's complaint about Santander's unreasonableness in requesting certain information as part of its LPA

registration process as I consider that the bank is entitled to determine its own needs in this regard.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 5 January 2020.

June Brown
ombudsman