

complaint

Mr Z has complained Santander UK plc is holding him liable for the expenditure on credit cards he didn't apply for in 2016 and 2017.

background

After applying for a loan with his bank, Mr Z was told his credit record showed a number of loans and credit cards. He'd never applied for these. Three of those credit cards were with Santander. Mr Z also reported what had happened to the police.

Santander had received credit card applications online in Mr Z's name in both July 2016 and September 2017. They'd assessed these, given cards (for both Mr Z and his wife) and granted credit limits. The joint bank account was quoted on the application. Mr Z also held a joint account with his wife at Santander. This account had been opened in October 2014 and both Mr Z and his wife, Ms A, held debit cards for the account. Mr Z said he didn't know this account was still active.

By the time Mr Z complained to Santander, there were arrears on the credit cards. Santander felt this was a civil dispute and noted initially Mr Z hadn't thought it was his wife and only realised this later. They'd also seen that a good deal of the expenditure was for the home Mr Z and his family were intending to move into. Only one payment on one of the credit card accounts was made using Mr Z's credit card. This was a payment to refurbish this home.

Santander felt they'd done nothing wrong in expecting Mr Z to repay this debt. Mr Z knew he hadn't applied for the credit cards so brought his complaint to the ombudsman service (along with other complaints).

Our investigator reviewed the evidence. This included the applications, statements for the credit cards and Mr Z's joint current account. She felt overall the evidence pointed to Mr Z having made the credit card applications. She noted though it was Ms A's telephone number and email address on the applications. She was also aware the expenditure on the card had been for the kind of things which Mr Z may have benefitted from.

Taking all this into consideration, she didn't think it would be fair to ask Santander to not hold Mr Z liable for repayment.

Mr Z disagreed with this outcome and asked an ombudsman to review his complaint.

I completed a provisional decision on 6 April 2020. I believed Mr Z hadn't applied for the credit cards so asked Santander to remove any data about these from his credit record.

Santander believed they couldn't amend Mr Z's credit record until the three debts were paid. These now totalled around £9,500.

Mr Z accepted this outcome but wanted to make sure Santander informed any third-party company debt-collecting on their behalf to be told he wasn't liable for the debt as well.

I now have all I need to complete my final 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. Having done so, I've reached the same conclusion as my provisional decision whilst taking into account what Santander has said. I'll explain further.

There are a number of key aspects to this complaint. Did Mr Z apply for the credit cards? Did he benefit from the spending? And whether this expenditure has now been repaid?

credit card applications

There is no dispute that the application was made in Mr Z's name with him as the primary cardholder. However the personal details – including phone number and email address – belonged to Ms A. That doesn't alone mean Mr Z was unaware of the credit cards. He's confirmed he knew of one credit card but had thought the account had been closed because his wife had told him so.

He could have deliberately made the application using his wife's personal details. However looking at the other loans Mr Z has also complained about, it seems clear there is a pattern of loans and credit cards being taken out without his knowledge.

Our investigator has also talked to Ms A about these credit cards and others. She's admitted she took out these cards and used them. There's also evidence that Ms A wrote to other lenders to confirm this.

I agree it's most likely these credit cards were taken out by his wife, based on what I know about Mr Z's other complaints and the evidence from Ms A.

how were the credit cards used?

In her view of 6 March 2020, our investigator showed the credit cards were spent on normal household shopping, as well as cash withdrawals and payments for house refurbishment. I'm aware – because of the other cases we are considering – that Mr Z knew about the work being carried out.

Ms A has confirmed a lot of the money went to refurbish another property (which has since been sold) as well as on buying household items.

Payments to the credit card accounts were made online. Whilst these were done using Mr Z's online banking, it looks as if these were funded by Ms A's sole account (also with Santander).

There's no doubt this credit card, along with others, would have resulted in quite a deal of paperwork. Mr Z has told us that his wife managed the family finances and that, in itself, isn't an unusual arrangement. But for Ms A to have hidden all this activity from Mr Z would have meant quite a lot of subterfuge. It's difficult to imagine this wouldn't have been noticed by Mr Z. I appreciate he's told us that he believed his wife earned more than him which explained why there was the money available that resulted from these loans and credit cards. I'm surprised though he didn't wonder how all the work being done to the house was being paid for. But from what I've seen, Ms A also managed to keep her actual job secret from Mr Z so perhaps this is not too surprising.

Ms A has also confirmed she's taken steps to repay her debts. I know she's made arrangements with other companies where she took out loans to repay the debts still outstanding. She's told us she is repaying the credit card debt through Santander's debt recovery agent. I've seen details of her standing orders to two different debt recovery agents paying Santander's debt. Santander was able to confirm more than £9,500 remains to be repaid for the three credit card debts.

I understand from conversations with both Mr Z and Ms A that what has happened has had a devastating impact on their relationship and their family.

Based on what we know, I believe Mr Z didn't apply for the credit cards. As Santander has no contractual agreement with him, they can't place information about the credit cards on Mr Z's credit record. All data about these agreements will need to be removed. Santander has said the debts need to be settled first but the key issue here is Mr Z didn't apply for the credit cards. Therefore Santander has no authority from him to lodge any data on his credit record.

I've also noted Santander was aware of this situation some time ago. They know arrangements are in place to repay the debt and that Mr Z disputed he'd taken out the agreements. I'm appreciate they think this is a civil dispute and I don't think Mr Z disputes this either. However they must have realised that if Mr Z hadn't taken out the credit cards, then they couldn't ask him to repay them.

I may have come to another conclusion if Ms A hadn't admitted she'd made these applications and is now repaying the debt. She's aware Santander may take action against her if the debt stops being repaid. As Mr Z has pointed out, as he didn't apply for these cards, they must also let any debt-recovery company they use be aware that they must stop chasing him for the debt.

Overall I think it's fair and reasonable Santander pay Mr Z compensation for the time they've left information – including defaults – on his credit record when they shouldn't have. I believe £200 is a fair amount.

my final decision

For the reasons I've given, my provisional decision is to instruct Santander UK plc, to:

- stop pursuing Mr Z for the debts relating to these credit cards;
- remove all data from Mr Z's credit record about the credit cards taken out by his wife; and
- pay Mr Z £200 compensation for the trouble caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 11 June 2020.

Sandra Quinn
ombudsman