

The complaint

Ms W complains Santander UK PLC sent her sons current account statements without her agreement, after she added them to her Santander profile as Lasting Power of Attorneys (LPA). She said her instructions hadn't been followed and was a breach of confidentiality.

What happened

I sent the parties a provisional decision in April 2024, in which I set out the following background information to the complaint and my provisional findings, as follows:

Ms W explained she visited separate branches of Santander in July and September 2022 with each of her two sons to record their LPA over her financial affairs.

Ms W said she explained to Santander during both appointments she was still able to manage her affairs at that time and didn't require any assistance from her sons. She explained registering an LPA was purely a backup in case there was ever an emergency. Ms W says she was clear she wanted to continue to manage her affairs independently.

Ms W said she first learned her sons had been receiving statements in the summer of 2023. Following this, one of her sons wrote to Santander to stop the statements, Ms W subsequently arranged with Santander for her other son to also stop receiving her statements.

Ms W accepts her sons will need to receive some correspondence from Santander from time to time as LPAs, but said she had not received any clarification or details about Santander's regulations or procedures since receiving the initial letter confirming LPA in April 2022.

Santander explained in its response it was usual practise to send statements to LPAs once they had been added to a profile unless it is told this is not required. Santander therefore maintained it hadn't made a mistake.

Ms W disputes this. She said she specifically explained her wishes during the appointments and Santander failed to record her instructions.

Ms W has described the stress and inconvenience this caused her, explaining she thought it was a breach of confidentiality and negligent by Santander, and has asked for compensation.

Our investigator didn't think Santander had done anything wrong. They explained LPAs grant access to customer's accounts and give those holding LPAs the power to make financial decisions on behalf of the customer.

They accepted Santander had a policy of automatically sending copies of statements to LPAs and its explanation was so LPAs could have sight of any potential issues with the account. They didn't think Santander had acted unfairly. Our investigator also explained our service does not have the power to change Santander's procedures.

Ms W disagreed with our investigator's recommendation; therefore, her complaint has been passed to me to make a final decision.

My provisional findings

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

Santander explained in its response letter it is a normal part of its process when registering an LPA for the LPA holder to start to receive copy statements. Whilst I accept this is usual practise for Santander, I don't think it has considered the other element of this complaint in its response. This is that Ms W said she was clear she still wanted to manage her own affairs at the time she set up the LPA, and that she was clear the LPA was only registered in case of emergencies.

I have not seen any evidence Santander told Ms W at the time she registered the LPA it would send statements to her sons. She has been consistent that she did not want her sons involved with her account at the time she visited the two branches, and said she told the branches this.

I have no reason to doubt Ms W's recollection of what she said to Santander, and Santander have not presented evidence to our service to counter Ms W's recollection. I think these comments should have reasonably indicated to Santander she would not have wanted it to send statements to her sons. I think it is reasonable to deduce, based on this and its own policy and responses, Santander did not think to ask Ms W whether she wanted statements sending to her sons during these appointments in branch.

I have considered Ms W's complaint carefully, and I provisionally don't agree that sending the statements to her sons constitutes a breach of confidentiality or negligence as she has claimed. This is because both sons do hold LPA and therefore have a legal right to such information. As sending copy statements to LPAs is recognised practise within Santander, it also follows that I can't consider this as negligence. In summary, I do not think sending these statements was a mistake or error. I therefore do not uphold this part of Ms W's complaint.

However, I do think, considering the evidence I have seen, Ms W and her sons were clear about why they wanted the LPA set up and that Ms W was capable and wanted to continue to manage her own financial affairs at that time.

I think, faced with this information, it would have been fair and reasonable to ask her and her sons whether they needed or wanted statements sent to them, and have cancelled these options if she did not want them.

I also note Santander are quite easily able to stop statements going out to LPAs when requested, this suggests to me it is not unusual for customers to have LPA and not want statements to be sent to their LPAs.

Taking all this into account, I think there is evidence of poor customer service when the LPA was set up by Santander.

I provisionally think this was a singular customer service issue which took some effort to sort out. For my reasons above, I only think this matter was poor customer service, rather than negligence or a breach of confidentiality, and my provisional decision is only related to Santander not making Ms W aware it would send statements to her sons and not giving her the opportunity to opt out of this.

Because of this I am likely to uphold this part of Ms W's complaint and award £100 compensation.

My provisional decision and the parties' responses

I provisionally decided to partly uphold Ms W's complaint. I thought Santander should pay Ms W £100 compensation for the distress and inconvenience it caused her by not offering her the option of opting out of copy statements going to her sons.

Santander responded to my provisional decision and agreed to pay Ms W £100 for the distress and inconvenience it had caused.

Ms W also responded, she disagreed with my provisional view in that I did not find Santander were negligent. She explained she considered she had a claim of negligence against Santander as it had ignored her instructions.

With regards to her instructions, I have carefully considered the comments Mrs W has made. As I said in my provisional decision, I do accept she explained she was able to manage her affairs and didn't want her son's involved at that time. However, I don't think, based on the evidence and the further comments by Ms W, there was a specific instruction for her sons not to receive copy statements. In summary, she has not said she didn't want her sons to receive copy statements during her meetings at the branches.

This is entirely understandable, as it is relatively clear to me from the evidence presented, Ms W did not realise statements would start to be sent to her LPAs as she was not told and only found out later.

I appreciate Ms W does not agree with my provisional decision, and remains of the view Santander has been negligent. For the reasons I have outlined, I do not think this was the case. As I explained, I am satisfied it was usual policy for statements to be sent to LPAs when added to an account, I therefore can't find this was negligent.

As I said, from the information Ms W provided Santander with, I do think it made a mistake and should have realised Ms W may not have wanted statements to go to her sons and should have clarified this point and stopped them. It is this reason I have upheld this part of Ms W's complaint.

Having reconsidered the issues, I remain of the view that my provisional decision was fair and reasonable. I have not been persuaded away from my provisional decision by the further comments from Ms W, and maintain my original view for the reasons above, but I hope these further remarks help to assist Ms W.

I have also corrected the paragraph above about stopping statements to your son as per your comments.

Finally, the Financial Ombudsman Service is alternative dispute resolution service. It is an alternative to Court and doesn't replicate its role. If Ms W rejects this final decision, she can still pursue legal action.

My final decision

For the reasons I have given it is my final decision Santander UK PLC should pay Ms W £100 compensation for the distress and inconvenience it caused her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 5 June 2024.

Gareth Jones
Ombudsman