

## **The complaint**

Mr S complains that Santander UK Plc unfairly registered a default on his credit file without telling him and has refused to agree a payment plan.

## **What happened**

Mr S says Santander kept threatening him with defaulting his account despite him paying £20 a month to it. He says a default was registered without him being told and Santander has now passed the debt to a debt collector without telling him. He also says Santander's actions have caused him stress and would like it to agree to a repayment plan and remove the default and stop sending him the default letters.

Santander says it's obliged to send the default letters and so hasn't made a mistake. It says it couldn't agree a repayment plan with Mr S as he didn't have enough money but says it would accept any repayments towards the debt. Santander says it correctly registered a default and is obliged to accurately report the position of its customer's accounts to the Credit Reference Agencies (CRA's). It says it told Mr S his account would default.

Mr S brought his complaint to us and our investigator didn't uphold it. The investigator thought Santander had followed Information Commissioner Officer (ICO) guidance on the registering of a default and thought Santander was obliged to send Mr S the default notices. The investigator didn't think Santander was obliged to accept Mr S's offer of token payments and Mr S was told that a repayment plan hadn't been agreed.

Mr S doesn't accept that view and in summary says he was not told the account would default and says there must have been a repayment plan agreement as he was given the account details to make the payments. He says he didn't receive the default letters and wasn't told the debt had been given to a debt collector. He also says he didn't receive any support.

## **What I've decided – and why**

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 have come to the overall view that Santander has dealt fairly with this complaint and hasn't made a mistake. I appreciate Mr S will be disappointed by my decision.

I have looked carefully at what Mr S told us this complaint was about and have looked at Santander's records to be sure what Mr S told it about his complaint. I can see Mr S told us and Santander that he was being "threatened by defaults" and, "was not happy receiving default letters". So, whilst I appreciate Mr S has also told us he didn't receive those default letters and was unaware the account may default, I'm satisfied he must have known about that possibility and I think on balance, based on what he told us and Santander, that he must have received those default letters. I also think that Mr S told us that for resolution of this case he wanted those default letters to be stopped. I find Mr S was told that his account

would default, and I think on balance he would have received a number of letters from Santander telling him that both before and after the account was defaulted.

I have listened to the call between Mr S and Santander in March 2020 and I'm satisfied Mr S was told that a payment plan arrangement had not been set up. I'm also satisfied Mr S told Santander at one point that "you didn't want to set up an arrangement". I think on balance that Mr S must have been aware that there wasn't a plan in place, and I can't think why else he would have said that if that wasn't the position. During that call I find that Santander gave Mr S account details that he could make payments into, but it was made clear there was no formal plan in place. And I'm satisfied that was due to Mr S not having enough money after a calculation took place to afford such a repayment plan.

I have also listened to another call between Mr S and Santander and I'm satisfied Mr S was given a number of options by Santander. And he was clearly told that his credit file would be affected, a default applied and that the amount owed could be passed to a third party for collection. During that call I find that Mr S was directed to a debt assistance company and told Santander "how does this help me". So, I'm satisfied that Mr S was told about the default and was also told his debt could be passed to a third party company for collection.

I have looked at the account terms and conditions and I'm satisfied they make clear that Santander is entitled to pass a debt to a third-party company and can see it wrote to Mr S on 15 July 2020 to tell him that. It follows I don't think Santander made a mistake by doing so and fairly told Mr S what it was doing.

Banks and building societies should treat customers in financial difficulties positively and sympathetically. I'm satisfied that Santander did try and help Mr S by looking at his income and expenditure but was entitled to reasonably conclude that it couldn't agree a repayment plan in these circumstances. I have also made clear that during one of the calls I have listened to that Mr S was directed to an organisation that could help him.

I'm satisfied that Santander has a duty to accurately report the position of its customer's accounts to the CRA's and I have not seen any evidence that it made a mistake here by doing so or that it reported inaccurate information.

Overall, I find Santander was entitled in line with ICO guidance to register a default on Mr S's credit file when it was clear the relationship between them had broken down and that Mr S was unable to repay his debt. I also find Santander must have sent Mr S the default notices as he himself has told us he received them, and Santander that. And I have not seen evidence that Santander made a mistake by passing the debt to a third -party debt company. I also find there wasn't a payment plan in place and again Mr S must have known that as he told us that and has said that he wanted Santander to agree one.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 March 2021.

David Singh  
**Ombudsman**