

The complaint

Mr L said that ill health had affected his income, so he'd entered into a debt management plan, and reached an agreement to repay Santander UK Plc as part of that. But he said that Santander was trying to change this agreement, which wasn't fair or lawful.

What happened

Mr L said that Santander had accepted the offer that was made on his behalf, under a debt management plan, to pay off his overdraft. But then it tried to breach that agreement, and tried to use threatening letters to get him to repay the full amount. Mr L wanted Santander to stick to the agreement it had entered into.

But Santander didn't think it had done anything wrong. It told us, when it accepted the offer made on Mr L's behalf, it also said then that it would need to send him a default notice. But the letter accepting Mr L's offer also said that as long as he kept making payments under the plan, Santander wouldn't need him to pay more than that.

Santander said recording a default on Mr L's credit file was a reflection of the conduct of the account, and it wouldn't change this.

Our investigator didn't think that this complaint should be upheld. She said that in December 2020, Santander agreed to a payment proposal of £14.71 a month, put forward by a debt management agency on behalf of Mr L. When it did this, it also said this -

'Please note that we'll still have to send you a Default Notice in line with the Consumer Credit Act 1974. This will ask you to repay the full balance. However, as long as you continue to make the agreed payments, we won't need you to pay any more than the payments in your plan.'

...

'We'll send a record of this arrangement to the credit reference agencies that we share data with. You should also be aware that we might need to record your account as being in default with us to the credit reference agencies, which could affect your ability to get credit in the future.'

Mr L received a default notice on 30 April 2021, asking him to pay over £700. When he didn't pay this, the account defaulted.

Our investigator said that when it becomes clear that the original agreement has been broken, lenders are entitled to default accounts. It was clear that this had happened here. So our investigator said she thought that the default was applied correctly. She said she wouldn't ask Santander to do any more.

Mr L didn't agree. He wanted to see the evidence that our service had used to reach this outcome. Mr L made a subject access request, which has now been fulfilled.

Because Mr L didn't agree with our investigator, this complaint was passed to me for a final decision.

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.

I've reached the same overall conclusion on this complaint as our investigator.

Mr L wanted to see all the documents that Santander had sent to our service. I'm not able to see what has been sent to Mr L as part of his subject access request, but I'm satisfied that the key documents in this case are in fact documents which Mr L has supplied to our service, and the final response letter from Santander, which I've arranged to have sent to him. So I'm also satisfied that I'm able to decide this case now.

Mr L told us that he'd reached an agreement with Santander to pay off his overdraft, as part of a debt management plan. He sent us a letter dated 26 December 2020 which accepts the offer of payment.

This letter does a couple of other important things. It confirms that Santander isn't going to charge interest any more on Mr L's debt. And it tells Mr L that Santander will default his debt, and it's going to be writing to him about that.

When Mr L first arranged an overdraft with Santander, that agreement said that he'd pay interest on the lending. Santander isn't charging that interest any more. So it's not operating under the original agreement it reached with Mr L. It's made a new agreement with him – as part of his debt management plan.

A default on someone's credit file just means that the lender considers that the original relationship between that person and the lender has broken down. In other words, it's a way of showing that Mr L isn't going to be able to pay back the debt in line with the original agreement (because he isn't paying interest any more) and Santander has accepted this.

Entering into a debt management plan doesn't stop a debt from defaulting. Because a plan like this confirms that someone isn't going to be able to pay back the money in the way originally envisaged, I would usually expect a default to happen for each debt covered by a debt management plan, within a few months of that plan starting.

And when Santander accepted Mr L's offer of payment, it explained to him that this is what would happen.

Before it can default a debt, Santander is required to give Mr L a last chance to pay off everything he owes. It still has to do that, even if it knows Mr L can't pay the whole amount at once. So Santander had to write to Mr L, asking him to pay everything.

I think it's important to note that Santander had already told Mr L that it wasn't really expecting him to pay everything he owed. It's not seeking to change the plan it's agreed with Mr L. It just has to do this, before it can record the default.

Mr L was upset and concerned by this. I do understand his concerns, as the default letters Santander sent were asking for a lot of money. But I don't think that Santander is trying to change what it has agreed as part of his plan, or that Santander has done anything wrong. Rather, I think that it was doing what I would expect in this situation. And it has since written

to Mr L, on 11 May 2021, to confirm for him that it's not trying to change the plan that it agreed to in December 2020.

I know that Mr L will be disappointed, but I don't think this complaint should be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 25 November 2021.

Esther Absalom-Gough
Ombudsman