

The complaint

Miss S complains that Santander Consumer (UK) Plc didn't treat her fairly and with respect when she asked it for a payment holiday. She says it caused her to be overdrawn at her other bank and its actions affected her credit score.

What happened

Miss S took out a conditional sale agreement in August 2017 to purchase a car. In March 2020 she asked Santander for a payment holiday on the car loan. She says that although the it offered her a payment holiday, it still collected her monthly direct debit, and this caused problems with her other bank and it also adversely affected her credit rating. Miss S told us:

- She asked the bank for a payment holiday on her loan account and this was approved, but the bank wasn't able to stop her next payment from collecting;
- Santander suggested she make an indemnity claim against the direct debit with her other bank and that the funds would be returned;
- the other bank made the indemnity claim, but Santander rejected it and because of this, a late payment marker was applied to her credit record and this has affected her credit score;
- Santander also wrongly provided the other bank with a copy of her credit agreement and personal details without her consent and, in doing so, it breached GDPR;
- the bank's staff provided no sympathy or empathy, and the people she dealt with were defensive, rude and unhelpful. She says the whole situation has caused her an enormous amount of stress.

Santander upheld Miss S' complaint and it apologised for the poor service it had provided and the inconvenience it had caused. It explained that although Miss S had contacted it on 31 March 2020 and a payment deferral was agreed, there was insufficient time to implement it before the next payment was due – the payment was already in the process of being collected. Because of this, it advised her to make an indemnity claim with her other bank in respect of this payment and the money would be recalled for her.

Santander told Miss S that it had failed to notify its finance department that about the indemnity claim and what it had agreed with Miss S. The result was that when Miss S' other bank tried to claim back the money, Santander's finance team contested it. And in contesting it, Santander sent the other bank details of the finance agreement it had with Miss S. It acknowledged that it should've redacted many of Miss S' personal details.

Santander acknowledged the mistakes it had made and apologised for the distress and inconvenience it had caused and the impact this had had on Miss S' overall wellbeing. It offered Miss S £500 compensation in recognition of what had happened, and it confirmed it would update her credit file to show "*perfect conduct whilst you are in the deferral payment break*". It also advised Miss S that because it had refunded one monthly payment from her loan account, a payment of £383.25 was due.

Miss S didn't accept Santander's offer. She said the service she'd received had been unsatisfactory, so Santander looked at the complaint again.

It confirmed that a payment holiday had been applied to Miss S' account for May, June and July 2020, but that there were arrears on the account in respect of the April payment that it had returned to her. In an effort to bring the complaint to a conclusion, the bank re-stated its offer of £500 compensation and in addition, it said it would waive the arrears of £383.25 on the account.

Miss S rejected the bank's offer and brought her complaint to this Service.

In 2021, Miss S made a further complaint about how Santander was treating her. She said the bank had granted her a payment holiday so her account couldn't be in arrears. And she said it hadn't correctly notified the credit reference agencies about her account – it was wrong of it to inform them of a default.

Santander rejected this complaint. It said Miss S had not made her monthly loan repayment for September 2020 which was due because her initial 3-month payment deferral had ended. It explained that it entered a second 3-month payment deferral with Miss S in October 2020, and this covered her monthly repayments for October, November and December. But it said she'd not paid monthly repayments for January and February 2021 when they were due, and she was then three months in arrears.

Santander says Miss S subsequently repaid one month's arrears, but her account still had two monthly repayments outstanding and it was on this basis that it had served her with a Notice of Default. The bank explained that it had an obligation to report accurate information to the credit reference agencies and it said this is what it had done.

Santander confirmed that its original offer was still open to Miss S. It had offered her £500 in recognition of the distress and inconvenience it acknowledged it had caused her. And it had offered to waive arrears in the sum of £383.25 in connection with the missed payment from April 2020.

Our investigator looked at this complaint and said he didn't think it should be upheld – he thought Santander's offer was a fair way to settle this complaint.

He explained that both parties accepted the direct debit indemnity claim should not have been contested by Santander – it had suggested this as an effective way of dealing with Miss S's request for a payment deferral. And by contesting it, Miss S' other account had been overdrawn for about six weeks. He said this would've caused Miss S additional distress even if the other bank hadn't charged her any fees for being overdrawn.

Our investigator went on to explain that it wasn't the role of this Service to decide if a business has breached data protection rules and regulations – that was the role of the Information Commissioner's Office (ICO). And he acknowledged that as Miss S had also raised a complaint about this with that organisation already, this wasn't something that he'd be investigating. But he said we could look at the impact of what had happened on Miss S and consider whether Santander had done enough on this occasion.

Taking everything into consideration, he said he thought the bank's total compensation offer of £883.25 was fair in the circumstances and he didn't think Santander needed to do anything more.

The investigator then considered Miss S' subsequent complaint and he issued an opinion. He explained that he'd seen evidence that Miss S had contacted the bank again in August 2020 and had been granted a further 3-month payment deferral covering October, November and December 2020. And he noted that Santander had paid Miss S £100

because it hadn't been able to implement the payment deferral in time for her September 2020 payment.

He took into account the FCA's guidance to banks about how they should treat customers experiencing financial difficulty during the Covid-19 pandemic. And although he said Santander could've done more to assist Miss S when she contacted it in August 2020, he thought the £100 it offered Miss S was fair and reasonable and in line with what he would've asked it to do.

He went on to consider Miss S' request for a further payment deferral in January 2021 – a request that Santander declined – but he said he didn't think the bank had done anything wrong. He explained that the FCA's guidance stated that payment deferrals could be granted for a maximum period of six months, and Miss S had already had the benefit of six months' payment deferrals.

Finally, he looked at Miss S' credit file and the reporting that Santander had given to the credit reference agencies. He explained that Santander had a duty to report information accurately – the guidance makes it clear that normal reporting to credit reference agencies should resume once payment deferrals have come to an end. Accordingly, Santander's reporting for January, February and March 2021 was an accurate reflection of Miss S' account.

Miss S disagrees so the complaint comes to me to decide.

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 hope that Miss S won't take it as a discourtesy that I've condensed her complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint. Our rules allow me to do that. Miss S should note, however, that although I may not address each individual point that she's raised, I have given careful consideration to all of her submissions before arriving at my decision.

Having taken everything into consideration, I've reached the same conclusion as our investigator, and for broadly the same reasons. To be honest, there's very little I can add to what he's already said, and I think he's set out the position very clearly in both of his views.

There's no dispute about what happened. Miss S tried to contact Santander at the end of March 2020 to discuss her financial difficulties. But because of the developing global pandemic, it's not surprising to me that the telephone lines were very busy, and it took Miss S several attempts over several days to finally contact someone at the bank. I know this would've added to Miss S' worries – but I can't hold the bank responsible for this.

When Miss S was finally able to speak with someone at Santander, it was too late to do anything about the direct debit payment that was already scheduled to collect – the financial process that sent the money from Miss S' other bank to her Santander loan account had already commenced.

Santander suggested Miss S make an indemnity claim on the direct debit with her other bank and this would enable the payment to be recalled. Miss S would still owe a loan payment for April 2020 and at the same time, Santander would've granted her a one-month payment deferral as she'd asked.

Things went awry when Santander didn't tell its own finance department what it had agreed with Miss S. And it acknowledges this – it says it was a simple case of human error. The result was that the indemnity claim failed, the temporary credit Miss S' other bank had placed in her account until Santander sent the money back was withdrawn, her bank account was overdrawn and her credit file was updated to reflect this.

I've considered very carefully Santander's subsequent actions – and I think it's done enough to put things right. It offered to waive the arrears associated with the missed payment – so Miss S doesn't need to make that payment at all. And it offered her £500 compensation in recognition of the worry and stress it had caused. It also ensured that her credit file was updated, and the missed payment marker was removed.

I believe Miss S' other bank account was overdrawn for several weeks, but I don't think the other bank applied any fees or charges because of this. And I understand that it also updated Miss S' credit file – so there's no record of this overdraft or the failed direct debit indemnity claim. I know the whole situation will have caused Miss S considerable worry but taking into account all the circumstances of this complaint, I'm satisfied that Santander's offer to waive one month's arrears and pay £500 compensation is both fair and reasonable. And that's what I'm going to ask it to do.

I've gone on to consider Miss S' subsequent complaint points about the second payment holiday that she arranged, but I'm not going to uphold these.

I can see Miss S asked for further support from Santander for her ongoing financial difficulties. She was in contact with Santander from mid-August to early October regarding the setting up of a new payment deferral. And Santander agreed to a second 3-month payment deferral.

Santander acknowledged that it could've dealt with Miss S' request sooner and it wrote to her in early September offering her £100 in recognition of the delay. The payment deferral was eventually set up in October 2020, and covered the loan repayments due for October, November and December 2020. And Santander wrote to confirm this and it also confirmed that Miss S' next payment would be due at the end of January 2021.

I've looked at the FCA guidelines to see whether Santander treated Miss S in the way I would expect, and I'm satisfied it did. Its actions were in accordance with guidelines issued by the FCA in July 2020. In its guidance the FCA said *"Where, after an initial payment deferral, and at any time before their first payment is due, a customer indicates they remain in temporary payment difficulties and cannot resume full payments immediately, a firm should offer a full or partial payment deferral to reduce payments for a period of 3 months to a level the customer indicates they can afford. If the customer is in temporary payment difficulties but is unable to afford any payments, the firm should offer them a full payment deferral where this is in the customer's interests."*

I know Miss S requested a third payment deferral when her second payment deferral came to an end in January 2021, and this was declined by Santander. The FCA's guidelines at this time were clear – payment deferrals could be agreed for a maximum of six months. So, I don't think Santander did anything wrong because Miss S had already had the benefit of payment deferrals for a total of six months.

Miss S also complains about the way in which Santander recorded arrears on her account and reported these arrears to the credit reference agencies. So, I've looked carefully at the transactions on Miss S' loan account and what happened after her second payment deferral ended in January 2021.

Miss S didn't make her loan repayment in January 2021. The arrears combined with the missed payment from September 2020 meant that Miss S was now two months behind with her loan repayments. Santander wrote to Miss S to notify her of her arrears as it's required to do – this ensured that Miss S knew the accurate and current position of her account in respect of outstanding arrears. And it seems the bank had already made it clear in earlier telephone calls that, once the payment deferrals had finished, missed payments would be reported to the credit reference agencies.

In early March, having missed February's payment as well, Santander issued Miss S with a notice of default. She immediately made a payment and the bank used this to cover the missing repayment and arrears from September 2020 and it updated her credit file accordingly.

At the end of March, the conditional sale agreement was terminated, and the car was returned. Santander told Miss S that the agreement was "settled", and it notified the credit reference agencies that the debt had now been "satisfied". But it left arrears marks on her credit report in respect of the missed payments for January, February and March 2021. I'm satisfied that this was an accurate reflection of what had happened, and it was in line with the FCA's guidance at the time. This stated that *"We expect firms to resume normal CRA reporting once all of a customer's payment deferral periods have come to an end..."*

Taking everything into consideration, I don't think that Santander did anything wrong when it issued a notice of default to Miss S in March and it reported the arrears on her account to the credit reference agencies.

Putting things right

I'm going to ask Santander Consumer (UK) Plc to pay Miss S the compensation it already offered her, if it hasn't already done so. That's:

- the £500 compensation for the mistakes it made with the direct debit indemnity claim;
- the £383.25 arrears it offered to waive in respect of the April 2020 payment;
- and the £100 if offered Miss S because it hadn't been able to implement her second payment deferral as quickly as it should've done.

I think this is fair and reasonable in all the circumstances of this complaint and I don't think Santander Consumer (UK) Plc needs to do anything more.

My final decision

My final decision is that I uphold this complaint and direct Santander Consumer (UK) Plc to pay compensation as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 25 October 2021.

Andrew Macnamara
Ombudsman