

The complaint

Mr W complains Santander UK Plc ("Santander") lent to him irresponsibly since he was experiencing financial difficulties at the time he applied for the loan.

Ms W brings the complaint on behalf of her son but I will refer to Mr W for ease.

What happened

Mr W has mental health issues which means he can be impulsive.

Mr W took out a loan of £7,500 with Santander in July 2020. At that time Mr W says he had debts on two credit cards, and another loan from a different provider. Mr W had missed payments, or made late payments, on all of those accounts. Mr W says the credit card companies reduced his credit limit and froze the cards.

When Mr W applied for the loan Santander approved it within around 7 minutes. Mr W says if there had been an actual person doing the necessary credit checks for a loan they would have seen his poor credit history and the loan would not have been approved.

Mr W says if Santander had looked at his current account and how it was run it would have seen he had an overdraft of £600 that he regularly goes over.

Since taking out the loan he has been unable to keep up with the repayments and says his mental health has deteriorated. And so he complained to Santander and wants it to write the debt off since it shouldn't have loaned him that amount in the first place.

Santander said the application was a system-based acceptance based on the credit checks carried out and the information provided by Mr W during the application. It said Mr W told it his income was £1,500 per month. Santander said Mr W had a 14-day cooling off period from when the loan was paid into his account to repay and cancel the loan without penalty. Santander didn't uphold the complaint saying it couldn't see any error had been made. It did refer Mr W to its vulnerable assist team who would manage Mr W's account.

Mr W wasn't happy with Santander's response to his complaint. And so he referred the complaint to the Financial Ombudsman. The investigator looked into things for him. He said he thought Santander had made proportionate checks when considering Mr W's loan application but thought what the checks highlighted should have prompted it to make further enquiries. If it had done so it would have seen Mr W was struggling with repayments on other lines of credit. And that his account was regularly over the overdraft limit. The investigator said in order to put things right Santander should refund Mr W all fees and interest, and deduct any repayments made from the total loan amount. He also said Santander should remove any negative information recorded on Mr W's credit file.

Santander agreed to settle the complaint as outlined by the investigator apart from the removal of the adverse data.

Mr W agreed with the investigator's outcome but said the loan should also be reduced by around half.

Since neither party agreed with the investigator's outcome the complaint has come 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.

When someone complains about irresponsible and/or unaffordable lending I need to consider whether the lender completed reasonable and proportionate checks to satisfy themselves that the lending was affordable, and that the affordability was sustainable.

Where reasonable and proportionate checks were carried out I need to consider if the lending decision was fair. And if reasonable and proportionate checks weren't carried out, I need to consider if the loan would've been approved if the checks had taken place.

In looking at the complaint I need to look at whether Santander acted unfairly or inappropriately in how it dealt with the situation including recording the missed payments on Mr W's credit file.

There is no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the loan being applied for, as well as the borrowers' personal circumstance at the time of the application.

The loan

Mr W doesn't dispute applying for, or signing the paperwork for, the loan. But he says given his personal circumstances Santander shouldn't have approved him for the loan in the first place. Santander wasn't aware of Mr W's health issues at the time of the application, and they only came to light when the complaint was made. Santander said the application was for £7,500 over three years for a used car. It said the customer was an existing customer and was system-accepted, passing all credit and affordability checks at the time. Santander also said Mr W declared a net monthly income of £1,500 with outgoings of £350 showing the loan repayments were affordable. And so was accepted for the loan.

Santander said since the application was system accepted it didn't undertake any additional checks such as requesting bank statements or payslips.

When looking at Mr W's application Santander had an obligation to consider all of the factors. So while it said the loan was affordable to Mr W at the time, the issue with Mr W being one payment in arrears on a credit card, and several missed payments on other accounts in the 6 months prior to the loan application should've indicated to Santander that the affordability may not be sustainable. So I would've expected Santander to carry out more checks before deciding whether to approve the loan.

The bank statements Mr W has provided show a number of payments which appear to be for repayment of credit or betting sites. There is also a credit union loan payment made the month before Mr W applied for the loan with Santander. And so I'm satisfied that reasonable and proportionate checks would likely have shown that Mr W was more likely than not to be unable to sustainably repay what he was being lent. In the absence of anything else, I think the bank statements for the three months before the loan was approved give a good

indication of what Santander would likely have discovered if it had asked about Mr W's expenditure.

The credit file

I can appreciate Mr W may be keen to avoid his credit file being impacted at a time when he is struggling to make payments towards the loan and other lines of credit. And he may feel aggrieved since he doesn't believe he should have been provided with the loan but it has impacted his credit file.

Santander, like all credit providers, have an obligation to report accurate information to credit reference agencies. Santander appear to have been doing that here. I can understand Mr W may have been dismayed to see missed payments being reported to his credit file.

But since I don't think Santander would have approved the loan in the first place the right thing to do here is to put the customer back in the position he would have been in had the loan not been approved. And so I don't agree that the credit file should remain as it is.

I note Mr W wants the loan amount to be reduced by half. But Mr W has had the benefit of the loan to repay other debts elsewhere. And so it's right that he repays the amount he borrowed.

Putting things right

In order to put things right Santander need to;

- Remove all interest, fees, and charges added to the loan since inception,
- Total all of the payments Mr W paid toward the loan and deduct this amount from the amount he borrowed;
- If this means Mr W has paid more than he borrowed, Santander should refund this amount to him, along with 8% simple interest a year from the date of the payments to the date of the refund*. But if this means Mr W still owes Santander any money, then it should work with him to agree a suitable repayment plan.
- Additionally Santander should arrange for all records and associated adverse credit entries relating to the loan to be removed from Mr W's credit file.

It should pay this within 28 days of us telling it Mr W has accepted my final decision.

*HMRC requires Santander to take off tax from the interest, Santander must give Mr W a certificate showing how much tax has been taken off, if he asks for one.

My final decision

For the reasons I've explained I uphold Mr W's complaint and direct Santander UK Plc to put things right by doing what I've said above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 December 2022.

Kiran Clair
Ombudsman