

The complaint

Miss I complains about a default registered against her by Santander UK Plc.

What happened

Miss I had a loan with Santander which was due to be repaid in full on 1 May 2020. Unfortunately Miss I became unwell and was signed off work from the early part of 2020 onwards. She missed her contracted repayments for March and April 2020 and called Santander on 21 April 2020 to discuss matters. When she called, Miss I said she wanted to repay the arrears in full and had the money to do so. But Santander advised her to enter a payment arrangement instead to pay the arrears and remaining balance (a total of £853.62).

Miss I agreed to pay £72 by 1 May 2020 and by the first of each month for 12 months. She stuck to that arrangement initially but was late with the payment due on 1 September; she paid on 18 September 2020. Miss I says she had spoken to Santander's loans department and was assured it would be fine provided she paid before 19 September 2020.

Santander wrote to Miss I on 9 September 2020 advising that she'd broken the arrangement, so the arrears were to be paid in full. By that time the total had reduced to £561.62. The letter said, *"if you've already paid this or spoken to us in the last few days to make a new arrangement, please ignore this letter."* Miss I didn't make contact, but made her payment on 18 September 2020 and made the next two payments (due 1 October and 1 November 2020), on time. She made the instalment due on 1 December 2020 two days late.

Santander registered a default against Miss I on 9 December 2020 and passed the account to a debt collector. She complained to Santander in January 2021.

Santander looked into Miss I's complaint. It said the arrangement put in place had been broken when the payment due by 1 September 2020 hadn't been made. It said it had written to her in September and October 2020 prior to issuing a default notice on 4 November 2020. As Miss I didn't contact it, a default was applied on 9 December 2020. Santander rejected her complaint.

Miss I was unhappy with Santander's response, so she referred her complaint to us.

One of our investigators looked into the complaint. She said it was clear the payment arrangement had been broken when the payment due on 1 September 2020 wasn't made on time. Our investigator noted that Santander had written to Miss I several times after that asking for full repayment or contact. As no contact was made and the balance wasn't paid in full, she felt it was reasonable for Santander to apply the default. Santander accepted what our investigator said, but Miss I didn't. She said, in summary that the letters were unclear that contact was required, as she had made payments in the meantime. As there was no agreement, the complaint has been passed to me for a 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.

Having done so, I disagree with our investigator and think Miss I's complaint should be upheld. I issued my provisional decision saying:

"When Miss I contacted Santander on 21 April 2020, she'd missed two monthly repayments – a total of £570. A further, final instalment of £285 was due on 1 May 2020. From the outset of the call, Miss I explained to the advisor she'd been off sick for a while with health conditions including anxiety and she wanted to repay the arrears. She explained she had £800 she could use to do so. She explained several times she was keen to repay the loan and knowing she was in arrears was causing her stress.

The adviser acknowledged what she said but suggested a repayment plan might be better for her. Over the course of the first 20 minutes of the hour-long call, Miss I reiterated several times that she just wanted to pay the £800 as the matter was causing her too much stress. It is clear from listening to the call, that this is what she wanted to do. The advisor however kept repeating that he felt the best solution for Miss I would be to set up an arrangement to spread the arrears – including the final payment - over a longer time. Eventually, Miss I accepted what the advisor said and agreed to the arrangement mentioned earlier. She made the first payment on 28 April 2020.

I've thought carefully about how this call was handled. I can fully understand why the advisor thought the arrangement may be better for Miss I, and I don't think he did anything wrong by suggesting it. But I do think he could have handled matters differently. Miss I said numerous times she just wanted to pay off the loan as it was causing her stress – something which won't have been helping her health conditions.

The advisor was concerned that Miss I appeared to be using all her available funds to make this payment, including money borrowed from her brother for this purpose. She assured him however this was what she wanted to do. She said she had food and drink available, and her brother was helping her when needed. I think at this stage, the advisor ought to have accepted what Miss I wanted and taken the payment. Afterall, Miss I knew her circumstances better than anyone and was best placed to make the decision.

Had the advisor accepted the £800 Miss I wanted to pay, this would have left a small balance of around £50 to repay on 1 May 2020. I've no reason to think that Miss I would have been unable to make that payment. The loan would then have been repaid in full and what happened afterwards would not have transpired.

But after some time, Miss I accepted the advice she received and agreed to the arrangement. She made payments ahead of the due date, until 1 September 2020. Santander wrote to her on 9 September 2020 to say the arrangement had been broken. It offered the opportunity to discuss a payment plan and went on to say if she'd already paid or spoken to the bank, she could ignore the letter.

Miss I says she spoke to the bank and was assured everything would be ok provided the payment was made by 19 September 2020 – she made it on the 18 September 2020 bringing payments under the original arrangement up to date.

Santander has acknowledged that Miss I spoke to it on 19 September 2020 but says this was relating to a different matter and was with a team which had no control over her loan. It said if she had spoken to the loan collections team, it's likely the arrangement would have been reset.

Miss I resumed payments on 28 September and 28 October 2020 (due 1 October and 1

November respectively). But in the meantime, on 22 October and 3 November 2020, Santander wrote again saying the arrangement had broken and the full arrears were due. It followed this up with a default notice on 4 November 2020 demanding £345.62 within 28 days or a default would be registered at the credit reference agencies.

Miss I then made a further monthly payment of £72 on 3 December 2020 – albeit two days late. On 9 December 2020, Santander registered the default and passed the account to a debt collector. As I understand it, Miss I continued to pay £72 each month until the loan was fully settled in accordance with the arrangement agreed in the April call.

From a technical point of view, Santander has followed its process. Miss I's credit agreement had come to an end on 1 May 2020, so at that stage, the outstanding amount was due immediately. But Santander agreed an arrangement with Miss I. That arrangement was broken when a payment wasn't received on or before 1 September 2020 and it has no record of a discussion between its loans team and Miss I. But my role is to look at complaints on a fair and reasonable basis – not purely a technical one. I'm not persuaded that Santander has treated Miss I fairly and reasonably by registering a default against her. Let me explain why.

Santander wrote to Miss I a number of times following the late payment in September. But on each occasion barring the first, she was on track and up to date with the arrangement proposed by the advisor back in April 2020. The letters said if she'd paid or had made an arrangement, she could ignore them; she believed she had. And at the time the default was registered, she'd made all the payments that were due under the arrangement and it's my understanding that she continued to do so until the loan was repaid in full.

So the default was registered effectively because she was 17 days late with one payment and 2 days late with another under the agreement she had been persuaded to enter into. This seems to me to be unduly harsh and not fair and reasonable given the impact a default can have on a customer.

Furthermore, as I've noted earlier on, Miss I had been keen to repay the loan on time. She had the means to do so and had told Santander that having the loan ongoing would cause her more stress than simply repaying it. While I don't doubt the intentions of the advisor, if he'd accepted what she'd said rather than encouraging the arrangement, Miss I would not have entered into it and would not have found herself in this position.

It seems to me more likely than not, that had the call in April 2020 been handled as Miss I had wanted, she'd have repaid the loan on time in May 2020 and not suffered the resulting distress of having a default on her credit file. She was clearly stressed and anxious when she called and had a clear view of how she wanted to resolve matters. She spent 20 minutes reiterating her view to Santander. She was persuaded during the call, to enter into the arrangement which then went wrong – something she'd said she was concerned about at the time – causing her further distress and inconvenience.

For the reasons I've set out, I intend to uphold Miss I's complaint.

Putting things right

When we uphold a complaint, we aim to put the consumer in the position they would have been in had the problem not occurred. In this instance, I think Miss I would have repaid the loan in full on 1 May 2020 without the need for the payment arrangement. Her credit file should reflect that position. Santander should:

- *Update Miss I's credit file to remove the default and show the loan as having been settled on 1 May 2020.*
- *Pay Miss I £150 for the distress and inconvenience this matter caused her."*

Both Santander and Miss I have accepted my provisional decision, so I see no reason to depart from it.

My final decision

My final decision is that Santander UK Plc should settle this complaint as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss I to accept or reject my decision before 6 December 2022.

Richard Hale

Ombudsman