

The complaint

A company which I'll refer to as 'D' complains that Santander UK Plc treated them unfairly when they'd needed financial assistance and also provided incorrect information about their complaint to this service.

The complaint is brought on D's behalf by their directors Mr and Mrs W.

What happened

D held a business account with Santander.

D told us:

- They had applied for lending with Santander under the Coronavirus Business Interruption Loan ('CBIL') scheme in May 2020 but were incorrectly informed they were ineligible for the scheme. They then approached a different lender and received a £250,000 CBIL in December 2020.
- They believe Santander should have applied for the CBIL on D's behalf in May 2020 and because it didn't do so, D suffered a consequential loss from not being able to invest in the company as they would have liked due to less cashflow.
- After they'd been declined the CBIL, they asked Santander if it could provide other financial assistance. The bank agreed over the phone to provide an interest-free overdraft facility but then didn't make this available, so they'd incurred extra costs.
- When they brought their complaint to this service, Santander incorrectly informed us that D had been offered a £250,000 loan under the CBILS and had been given a £50,000 Bounce Back Loan (BBL).

Santander told us:

- It had made a mistake in telling this service that D had received a BBL, the company did have another loan, but this wasn't taken out through the BBL scheme.
- It hadn't offered D an interest free overdraft this had simply been a hypothetical option that had been mentioned when discussing a previous complaint. However, it had offered D a term loan for £250,000 in October 2020 after D said it needed more funding to undertake maintenance repairs.
- It had offered D a refund of £3,808.71 plus 8% interest to cover the costs they had incurred from using their overdraft with the bank instead of the CBIL they would have preferred – and were eligible for – between May and December 2020.
- It accepted D had been incorrectly told initially that they couldn't have a CBIL, however once it clarified the scheme in more detail, it had discussed this with D – but they chose to continue with another provider. But it acknowledged it could have reviewed this option sooner and offered D £500 compensation for the inconvenience this had caused.

Our investigator thought Santander's offer was fair. She said that Santander wasn't able to apply for the CBIL on D's behalf as that's not how the scheme worked. However, the bank acknowledged that it should have identified D could apply for a CBIL with it sooner and had offered to refund the financial loss incurred from the difference in interest rates paid by D and this along with the compensation for having to apply elsewhere was enough to put things right. She also acknowledged that D was claiming for a consequential loss, however she wasn't persuaded this had been caused by Santander based on the timeline D had provided.

D didn't agree. They said that as a result of Santander's actions, they weren't able to take on more pupils which based on average timescales the pupils were with D meant a loss of £500,000 profit. They also said the bank had agreed to a £150,000 interest free overdraft until their mortgage with the bank was in place (this has been dealt with under a separate complaint reference) but they only used the overdraft to finance wages when needed – had they had the CBIL in May when they'd applied, they would have had a year without having to make a payment and also the funds to take on students at that time. They also don't think Santander met their lending obligations as they hadn't been given the right product for their needs and were unhappy with the information mistakes which had caused the directors distress.

As an agreement couldn't be reached, the case has been passed 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.

D reiterated that Santander told them they could have the £150,000 overdraft on an interest free basis. However, this has already been addressed under a separate complaint reference, so I won't be commenting on this again. The key findings of this decision relate to the CBIL and whether Santander treated D fairly when they initially approached the bank to apply for this.

However, there's not much more that I can add to what our investigator already said.

D told us that Santander treated them unfairly as it told them they weren't eligible for a CBIL when they initially approached the bank for lending, and they believe this was done for profit purposes. But I'm not persuaded that's the case. It's not disputed by either party that Santander could have offered D a CBIL sooner than it did, however I've looked at the evidence from both parties and based on what I've seen I think it's more likely that this was a misunderstanding of how D was classified as a business under what was a new government scheme, rather than the bank looking to provide D with more costly funding.

I say this because the overdraft provided to D, although at a higher rate was unsecured, and only payable on the funds used. However the CBIL offered a government backed guarantee and would have received interest on the drawn down balance in line with the scheme rules. By offering D a CBIL, this would have meant less risk to the bank, given the guarantee of repayment on the full balance, compared to the overdraft where the bank only received payment on the funds as they were used by D.

D says that because they weren't given the CBIL when requested, they weren't able to benefit from the year of deferred repayments and they also lost around £500,000 profit. However, I'm not persuaded that D would have lost that level of profit because Mr W told us that D can take on additional students at any point throughout the year due to the nature of their business. So even if D weren't able to take on the extra students in June – assuming the CBIL had been agreed by then – they could have taken on the students in December and the income would have started from this point. So D wouldn't have lost the subsequent

four and a half years income (based on the average term quoted by D) which Mr W says the company lost.

I recognise D says that had they received the CBIL in June 2020, they would have received an interest free period of 12 months and not had to make any repayments at that time either. However, it's not for me to fine or punish a business for making a mistake, and I have to take into consideration that D was still able to receive the CBIL from another lender in December 2020 - and therefore still have use of the scheme terms, such as the interest free period – albeit six months later than they wanted.

I acknowledge that D was caused inconvenience by this as they had to look for alternative ways to finance the company at that time. But I've seen that Santander did provide D with an overdraft facility from March 2020 (when Mr W says D first approached the bank about the CBIL) so they did still have financing available which was drawn down in £50,000 tranches when they needed it. Santander has also offered to refund the overdraft interest that D wouldn't have paid had they been granted a CBIL in May 2020 as they should have been, until the date they took out the CBIL with the other lender. This means that D wouldn't have incurred a direct financial loss from the delay in receiving a CBIL. So I think Santander has done enough here to put this right.

Mr W also told us that there wasn't really a discussion with the bank about how much financing D needed at the time the £150,000 overdraft was provided, because they were also looking at another loan which was expected to be received shortly. I recognise that D says they told Santander in July 2020 that they would need further funding if this loan wasn't received as expected. But I've looked at the email and I can't see that there was any further contact with the bank to request any further funding until the end of September 2020 when D said they needed a further £100,000 of funding to undertake urgent repairs.

I've also seen that a new loan was agreed within a couple of weeks to provide this – but D chose not to proceed with the loan but to look elsewhere for finance. So I can't fairly hold Santander responsible for D not having sufficient funds to take in more students if the company chose to seek alternative financing elsewhere.

So whilst I agree that Santander could have told D more quickly that they were eligible for the CBIL, I'm not persuaded this led to the losses which D says they have incurred. Therefore given all the circumstances of D's complaint, I think Santander's offer to refund D the difference in the interest they paid on the overdraft compared to what they would have paid on the CBIL plus interest at 8% per year simple, for the loss of opportunity along with £500 for the inconvenience caused is a fair way to resolve this part of D's complaint.

Mr W told us that the directors had been caused distress and inconvenience due to Santander's actions. But this complaint has been brought on D's behalf, so D is the eligible complainant. This means that I can't look at any distress or inconvenience caused to the directors in a personal capacity. Limited companies like D, as corporate bodies rather than individuals, are not capable of suffering distress, which means I can only look at the inconvenience caused to D by Santander's actions.

D says that Santander behaved unprofessionally when it told this service that they'd received a BBL. However, I'm satisfied that this was a genuine error by the bank as it referred to D's existing loan as a BBL. Furthermore, this error was clarified before this service made a finding on D's complaint and Santander has apologised for this error. So I'm satisfied that's enough to put this right.

Putting things right

I think it's clear that Santander's error in declining D's request to apply for a CBIL caused them inconvenience. To put things right I think Santander should refund the difference in the interest D paid on the overdraft compared to what they would have paid on the CBIL plus

interest at 8% per year simple, along with £500 compensation – both of which it has already offered.

My final decision

Santander UK PLC has already made an offer to refund D the difference in interest they paid on their overdraft and what they would have paid on the CBIL plus interest at 8% per year simple and pay D £500 to settle the complaint. I think this offer is fair in all the circumstances.

So my decision is that Santander UK should refund D in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 30 November 2023.

Jenny Lomax
Ombudsman