

The complaint

Mr J complains that Santander UK Plc (“Santander”) irresponsibly granted him a credit card he couldn’t afford to repay.

What happened

In September 2014 Mr J entered into an agreement with Santander to have access to credit by way of a credit card account. He was given an opening credit limit of £3,600.

Mr J started getting into difficulty with making repayments to the card by December 2014. The account was eventually closed by Santander in August 2015. In August 2017 it was sold on to a third party.

Mr J says Santander didn’t complete adequate affordability checks and shouldn’t have granted him the account. He says he was already struggling financially at the time, was self-employed and didn’t have a regular income.

Santander didn’t agree. It said that it carried out a reasonable and proportionate assessment to check Mr J’s financial circumstances before granting him the credit.

Our adjudicator recommended the complaint be upheld. He thought Santander acted unfairly in not checking Mr J’s income before approving the opening of the account.

As Santander didn’t agree the complaint has been 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.

Santander will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

Before granting the account Santander says it looked into Mr J’s financial situation. Unfortunately it no longer has the full details from his application. I’ve seen that Mr J had made other applications for credit at around the same time where he’d suggested he had an annual income of somewhere between £30-40,000. The checks Santander carried out showed that Mr J owed around £500 in unsecured credit and didn’t have any adverse markers on his credit file, such as arrears, defaults or a history of missed payments. Santander also told us it carried out an affordability assessment. It assessed Mr J’s accommodation costs as being £800, his living costs as being £445 and allowed £13 per month to make payments on his existing credit commitments. This worked out at total committed expenditure of £1,258.

In carrying out its checks prior to approving the application, it seems that the Santander was focusing more on whether he satisfied its own lending criteria rather than looking into his actual financial situation at the time. I think it would have been proportionate for Santander to have verified Mr J's income in some way, especially given the generous opening credit limit it was giving him. But I haven't seen any evidence that this happened.

In the absence of any checks Santander may have done, I've reviewed the copies of Mr J's tax returns for 2013/14 and 2014/15 that Mr J provided to our adjudicator, showing a declared income of £5,500 and then £24,000 for these tax years. Mr J told our adjudicator prior to November 2014 he hadn't taken an income from his company and at times it had been necessary for him to support it with loans.

All of this is clearly at odds with the salary Mr J was declaring in other applications for credit. I therefore think it's very likely that had it carried out better checks, Santander would have seen that Mr J wasn't earning an income that was regular enough, and at a sufficient level, to demonstrate that he'd be able to manage the new card alongside his existing financial commitments. I note that Mr J had used the entirety of his available credit within three months of being accepted for the card.

So I agree with our adjudicator that in setting the opening credit limit that it did, Santander failed to take reasonable and proportionate checks to establish Mr J's actual income.

I consider it would have been proportionate for Santander to have got a more thorough understanding of Mr J's financial circumstances, especially his employment and income situation, before giving him the credit. I agree that the checks Santander carried out at the time show that the opening credit limit was unlikely to have been affordable.

It follows that I don't think Santander should have granted Mr J this credit.

Putting things right – what Santander needs to do

As I don't think Santander ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Mr J should pay back the amounts he has borrowed. Therefore, Santander should:

- Rework the account removing all interest and charges that have been applied.
- If the rework results in a credit balance, this should be refunded to Mr J along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Santander should also remove all adverse information regarding this account from Mr J's credit file.
- Or, if after the rework there is still an outstanding balance, Santander should arrange an affordable repayment plan with Mr J for the remaining amount. Once Mr J has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

*HM Revenue & Customs requires Santander to deduct tax from any award of interest.

It must give Mr J a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Given that Santander sold the outstanding balance on Mr J's account to a third party in August 2017, it either needs to buy the account back from the third party and make the necessary adjustments; pay an amount to the third party so it can make the necessary adjustments; or pay Mr J an amount to ensure that it fully complies with this direction.

My final decision

For the reasons I've given, I'm upholding Mr J's complaint. Santander UK Plc should put things right in the way I've set out above.

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

Michael Goldberg

Ombudsman