

The complaint

Miss R complains that Santander UK Plc (“Santander”) irresponsibly granted her a credit card she couldn’t afford to repay.

What happened

In April 2021 Miss R entered into an agreement with Santander to have access to credit by way of a credit card account. She was given an opening credit limit of £3,900. This was increased to £4,500 in July 2021.

Miss R got into difficulty with meeting her monthly repayments towards the end of 2021. She agreed a payment arrangement with Santander that came to an end in November 2022 when the card arrears were brought up to date.

Miss R says that Santander didn’t complete adequate affordability checks before opening her account. She says her financial situation was already stretched and that having the card led to it getting substantially worse.

Santander said it carried out a reasonable and proportionate assessment to check Miss R’s financial circumstances before granting her the credit.

Our investigator recommended the complaint be upheld from the opening of the account because he didn’t consider that Miss R had enough disposable income to be in a position to sustainably afford the borrowing.

Santander has withdrawn its main objections to the uphold finding but has queried how the redress should operate.

The complaint has therefore 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.

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.

Santander needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss R could afford to repay what she was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer’s income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender like Santander to be able to show that it didn't continue to lend to a customer irresponsibly.

Before granting the account, Santander looked into Miss R's financial situation. Miss R told Santander she had a monthly income of just over £2,040 and that her monthly outgoings were £1,400. Based on that, she would have a monthly disposable income of around £650. Santander says it also carried out its own manual review based on this information. This included checking her credit history and finding no adverse markings on her credit file or signs of high levels of debt held elsewhere. Based on these factors, Santander granted Miss R the opening credit limit of £3,900.

Whilst I think Santander gathered a reasonable amount of evidence about Miss R's income and credit history, it doesn't automatically mean it made a lending decision that was fair overall. So, I've thought about what the evidence and information showed.

Our investigator upheld this complaint from the opening of the account because he didn't think the new credit could be sustainably maintained alongside what Miss R already owed on credit elsewhere plus her regular committed living expenditure each month. As part of his review, our investigator relied on the bank statements that Santander had also provided, given that Miss R banked with them. He concluded that Miss R would be left with around £500 each month to meet her credit card commitments which, if fully utilised, would leave her with negligible disposable income. I agree that Miss R would very likely be left with minimal disposable income each month were she to make use of all the credit available to her.

Santander also pointed out that Miss R used only £3,200 of her initial credit by way of making a balance transfer, to pay off existing debt. But I consider that her subsequent balance transfers and spending history strongly suggests that Miss R was nevertheless becoming increasingly stretched financially.

It follows that I agree with our investigator that it's very likely that Miss R wouldn't have had enough disposable income if she were to be sustainably managing her new credit card alongside her existing significant level of financial commitments. I think it would have been proportionate for Santander to have gained a more thorough and accurate understanding of Miss R's financial circumstances before granting her the credit. It follows that I don't think Santander should have granted Miss R this credit.

I've seen that Santander, having accepted that the credit ought not to have been granted, have queried the appropriate way to apply redress, suggesting that this service might wish to liaise with Santander's collections department going forwards with regard to Miss R's repayment arrangements.

I understand that Miss R's account remains up to date with ie with no arrears, and that Miss R is working with Santander's collections department to ensure there isn't a further arrears build up. I therefore think our standard redress for this type of complaint – as set out below – can be properly applied without difficulty.

As Santander correctly suggests, it should be possible to refund any interest and charges that have been applied to the account, subject to any refunds already made or repayment plans that have been agreed. And I see no reason why the current arrangement with

Santander's collections department ought not to continue, at least until such time as her balance has been cleared. Santander can then remove any adverse information from the credit file relating to the account. In the meantime, it remains open to Miss R to put forward any further settlement offers with a view to clearing, or expediting the clearance of her outstanding balance.

I am therefore setting out redress below that's in line with what our investigator set out in his uphold view letter.

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 Miss R should pay back the amounts she 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 Miss R 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 Miss R's credit file.
- Or, if after the rework there is still an outstanding balance, Santander should arrange an affordable repayment plan with Miss R for the remaining amount. Once Miss R has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires Santander to deduct tax from any award of interest. It must give Miss R a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

For the reasons I've set out, I'm upholding Miss R'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 Miss R to accept or reject my decision before 25 October 2023.

Michael Goldberg
Ombudsman