

The complaint

Mr G is unhappy that Santander UK Plc defaulted his account after he'd entered a payment arrangement with them.

What happened

Mr G had a credit card with Santander which was in arrears. In October 2022, Mr G spoke with Santander and agreed to a 15-month payment plan whereby he would pay £196.05 per month. But while Santander had agreed to the payment plan with Mr G, they never put the plan in place on his account. And this meant that Mr G continued to receive correspondence from Santander which said that he was in arrears and that he needed to contact Santander.

Mr G did contact Santander, having received correspondence from them. But when he did, he was incorrectly told that he had a payment arrangement in place and that the letters were being sent to him automatically and that he could ignore them. Mr G did ignore the letters, and so the arrears on his account grew, such that Santander eventually defaulted the account. Mr G wasn't happy about this, so he raised a complaint.

Santander apologised to Mr G and acknowledged that they'd made mistakes. Santander offered to remove the default from Mr G's account, but they required him to clear the arrears on the account first, before they would do so. Mr G wasn't satisfied with Santander's response and felt that Santander mistakenly defaulting his account had caused him to incur significant financial losses. So, he referred his complaint to this service.

One of our investigators looked at this complaint. They felt that Santander asking Mr G to clear the account arrears before they would remove the default from his credit file was reasonable. And they didn't feel it could fairly be said that Mr G had incurred the financial losses he had solely as a result of Santander's actions. However, our investigator did recommend that Santander should make a payment of £200 to Mr G to compensate him for the trouble and upset their errors had caused. Mr G remained dissatisfied, so the matter was escalated to an ombudsman 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.

I issued a provisional decision on this complaint on 13 October 2023 as follows:

Santander don't dispute that they've made several compounding errors here. These include that Santander didn't set up the payment plan they'd agreed with Mr G and that they later incorrectly told Mr G that the payment plan had been set up and that he could ignore the arrears letter he was receiving from them.

In their response to Mr G's complaint, Santander explained that they would be happy to remove the default they'd incorrectly added towards the end of 2022, but that Mr G would

need to clear the arrears that had accrued on his account before they'd be willing to do so. And Santander have explained to this service that they now require Mr G to clear the full outstanding balance of the account before they'd be willing to remove the default that they'd incorrectly applied.

This doesn't feel fair to me, and my provisional decision here will be that I uphold this complaint and that Santander must remove the default from Mr G's credit file immediately without any requirement for any payment from Mr G at this time. Additionally, Santander must return Mr G's account to the position it should have been in at the point that it was incorrectly defaulted by them.

This includes writing off any interest or charges that have been applied to the account since the point of default. And Santander must retrospectively apply a balance and payments freeze to the account from the point of default to when the account is correctively restored – effectively suspending the account and the payment plan from the point of default to when Santander undertake this corrective action.

I take this position because it doesn't seem unreasonable to me that Mr G would have stopped making the payments to the account that he'd agreed to make after discovering that Santander had incorrectly and unfairly defaulted his account. And I feel it should be for Santander to bear the discomfort of rectifying their mistakes here – given that it was Santander who broke the agreement they had made with Mr G – which I feel should fairly be that Mr G's account is returned to the position it was in when the default was incorrectly applied so that Mr G can continue with that plan from the position it in when it was unreasonably interrupted by Santander defaulting Mr G's account.

Santander must also ensure that Mr G incurs no adverse credit file reporting because of their mistakes. This should fairly be that the balance and status of the account is retrospectively reported as it was before the default until the default is removed and Mr G resumes making payments to the account, in line with the payment plan that I'm instructing should effectively be considered as having been suspended.

And importantly, given that Mr G has unfairly had this default on his credit file for an unreasonable length of time already, I will only be allowing 14-days for all parties to provide responses to this provisional decision – as I have no intention of allowing this matter to draw out any further than necessary from this point.

It's also clear that Mr G has incurred significant upset and inconvenience for which he should fairly be compensated here. And I feel that this has been exacerbated by Santander not acting to remove the incorrectly added default as a matter of urgency when it was first recognised as being added incorrectly and unfairly by them. As such, my provisional instructions include that Santander must make a payment of £750 to Mr G, as compensation for the significant and prolonged worry and frustration he's unreasonably had to incur here.

Finally, Mr G has asked this service to consider several losses that he feels that he's incurred as a consequence of Santander's actions. These include that Mr G wasn't able to be a joint party with his wife on a mortgage or car finance, both of which his wife had to take herself, and that he has lost out professionally due to the requirements of his employment.

I can appreciate Mr G's position here. But the criteria this service seeks to confirm in regard to claimed consequential losses is quite strict. In short, we require evidence that any claimed loss has arisen solely as the result of the actions of the business being complained about. And, upon review, I'm not convinced that Mr G has been able to evidence this.

Additionally, from a fairness perspective, some of the losses Mr G is claiming involve that he

hasn't been able to obtain a share of financial gains that his wife has made on her own. And in such circumstance, I wouldn't feel that it would be fair to instruct Santander to reimburse that claimed loss to Mr G, given that his legal spouse has received the financial benefit herself which he seeks to claim.

All of which means that I won't be provisionally instructing Santander to make any payment to Mr G regarding the consequential losses that he's claimed. I realise that Mr G will likely disagree with this part of my provisional decision, but I'd like to reassure him that my position on this matter shouldn't reasonably affect his ability to pursue these claimed consequential losses via other channels, such as a Court of Law, should he wish to do so.

Santander responded to my provisional decision and made a counter proposal based on the fact that they had taken the commercial decision to no longer offer banking services to Mr G. This led to me issuing an amended provisional decision, on 9 November 2023, as follows:

Mr G responded to my provisional decision and confirmed that he was happy to accept it. Santander also responded to my provisional decision and explained that they were unhappy with my provisional instruction for them to reinstate Mr G's account because they had made the commercial decision to no longer provide banking services to Mr G.

Because of this, Santander made a proposal whereby they would write off the remaining account balance of £2,616.83 so that Mr G owed no money to them relating to the account and also that they would remove the default and amend Mr G's credit file in line with what I had instructed. Santander also explained that because they were proposing to write off a significant balance that Mr G owed, they didn't feel my provisional instruction to pay £750 to Mr G as compensation for the trouble and upset he's incurred was still fairly merited.

I put Santander's proposal to Mr G, and he responded by explaining that he would like the instructions I gave in my provisional decision to stand. However, while I can appreciate that this would be Mr G's preference here, this service can't, ultimately, compel a business to provide its services to an individual which that business has taken the decision to no longer provide its services to.

This means that, in this instance, while I could instruct Santander to reinstate Mr G's account, there would be nothing to prevent Santander then issuing an account closure notice to Mr G, in line with the terms of that account. And given that Santander's account terms permit the closure of an account with given notice at the discretion of the Santander, it's unlikely that I would feel it to be wrong or unfair for Santander to provide such closure notice.

It therefore seems nonsensical to me to instruct Santander to reinstate Mr G's account in this instance, because Santander have confirmed that they're no longer willing to provide banking services to Mr G.

Accordingly, I find Santander's proposal to write off the remaining £2,616.83 and to remove all adverse reporting, including the default, from Mr G's credit file to be a fair and reasonable proposal. I say this because Mr G would no longer be required to make any repayment towards this account – as he would have been required to, had the account been reinstated. And because the removal of all adverse reporting from Mr G's credit file is in line with my instructions regarding credit file reporting in my initial provisional decision.

Finally, I'm also in agreement that because Santander have agreed to write off the £2,616.83 that Mr G owes on the account, it wouldn't be fair for me to instruct them to pay the £750 compensation to Mr G for the upset and trouble he's incurred. In short, this is because I feel

Santander's proposal to write off the account balance is generous and already provides fair compensation to Mr G for what has happened here.

Both Mr G and Santander responded to my amended provisional decision and confirmed they were happy to accept it. As such, I see no reason not to uphold this complaint in Mr G's favour on the basis described in my amended provisional decision. And I therefore confirm that I do uphold this complaint on that basis accordingly.

Putting things right

Santander must write off the remaining balance of Mr G's account.

Santander must also remove all adverse reporting relating to this account from Mr G's credit file, including the default.

My final decision

My final decision is that I uphold this complaint against Santander UK Plc on the basis described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 14 December 2023.

Paul Cooper
Ombudsman