

## The complaint

Mr C complains that Santander Consumer (UK) Plc, trading as Santander Consumer Finance, failed to treat him with forbearance when he fell into financial difficulties, and terminated his finance agreement. He also complains that he was bullied during a phone call.

## What happened

In September 2020 Mr C entered into a regulated conditional sale agreement with Santander in relation to a caravan, in which he now lives. The cash price of the caravan was £37,995, he paid a deposit of £3,800, and so the amount of credit was £34,195. The total amount repayable was £52,781.60, which was to be repaid over ten years, in 120 monthly instalments of £408.18.

Mr C has narcolepsy and cataplexy, which affect his ability to work.

In November 2020, Mr C began to struggle to afford the loan repayments. He contacted Santander about this. He complains that Santander did not do enough to help him, that it failed to take into account his medical conditions, and that after he had completed an income and expenditure ("I&E") form, Santander refused to let him complete a second one. He also says he felt bullied by one of the bank's call handlers during a phone call.

Santander does not accept those allegations. In its final response letter to Mr C, it told him that over a two year period beginning in February 2021, it had offered him forbearance in the form of reduced payments, payment breaks, changing payment due dates, and not defaulting his account despite the arrears which had built up. Santander said it had asked him to complete an I&E form in July 2023, but he had not done so. Santander denied that its call handler had been rude.

Mr C brought this complaint to our service in September 2023. Santander terminated the agreement a few days later.

Our investigator did not uphold this complaint. He listed the various times when Santander had helped Mr C by reducing his payments, removing a late payment fee, making arrangements to pay, and so on. That included when (in September 2021) Santander had refinanced the loan by executing a new loan agreement for the old loan balance and the arrears, which was to be repaid over 125 months at £406.18 a month. Santander had also discussed other options with Mr C, such as voluntary termination and voluntary surrender.

The investigator listened to two relevant call recordings (both from August 2023), and he did not agree that Santander's staff had been rude or had put Mr C under pressure. The I&E form was completed during the first call, and the result had been that Mr C's income was less than his expenditure. That meant that Santander could not offer Mr C a new payment arrangement, because he could not afford it. Mr C had then asked to do the form again so he could give different answers; Santander had refused, and the investigator thought that refusal was reasonable, since the whole point of the I&E form had been to get an accurate picture of Mr C's finances. The investigator did agree that another call handler had acted

unprofessionally on the second phone call, but not to the extent that financial compensation was warranted.

The investigator concluded that Santander had given Mr C reasonable forbearance and support for an extended period, and had taken his disability into account, but that there had been no prospect of Mr C's financial position improving or the loan being repaid. After so long in arrears, it had been reasonable of Santander to default and terminate the agreement.

Mr C did not accept that decision. In particular, he said that the second phone call had been worse than the investigator thought, and it had been disrespectful and insulting. He asked for an ombudsman to review this case.

### **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.

#### Financial difficulties

Santander has a duty to treat a customer who is in financial difficulties sympathetically and positively. That does not mean that it cannot require a customer to make payments to reduce his arrears, or that it can never terminate an agreement if there is no realistic prospect of the loan being repaid within a reasonable time. I have reviewed the history of Mr C's loan to see how Santander treated him; I will deal with the second phone call separately.

I have seen evidence of the following matters:

- In November 2020 Mr C asked for a payment deferral. Santander was officially unable to assist with that under its own policy, because the finance agreement was so new (it was two months old). But its call handler found a work-around, by changing the date of Mr C's direct debit so that his next payment would be deferred by one month.
- The following month, Santander gave Mr C a two-month payment moratorium.
- In January 2021, that moratorium was extended by another month, to March.
- In May 2021, Santander reduced Mr C's payments to 25% for three months.
- As I've said above, the finance agreement and arrears were refinanced in September 2021. This had been discussed with Mr C in a phone call a couple of days earlier, and he had agreed to it.

Mr C has since criticized this action, as he says that it resulted in him paying the bank more money, but it seems to me that this was a reasonable course of action to take at the time. It meant that the outstanding loan balance and the arrears were to be paid off at slightly less than the old monthly amount, in the course of about ten and a half years. Therefore this new agreement cleared the arrears and left Mr C with a clean slate.

- The following month, October, Mr C asked for a payment deferral. He was told that was not an option, because the new agreement was so new. His account went into arrears again.
- In December 2021, Mr C paid off his new arrears, and a late payment fee was

removed.

- In February 2022 the bank sent Mr C an I&E form. It does not appear to have been returned, despite the bank chasing him for it in March. Also in March, Santander gave him another one-month payment break.
- In April 2022 Mr C asked for a settlement figure, which was sent to him by text message. Later that month, the bank offered him another payment break, but he declined it.
- In June Mr C asked for and was given a one-month payment break.
- In August the bank sent Mr C a notice of sums in arrears. The monthly payment date was changed at his request.
- In October the payment date was changed again at Mr C's request.
- In July 2023 another notice of arrears was sent. Mr C said he could not afford to voluntarily terminate the agreement, and he asked for his arrears to be refinanced as a 12-month agreement, which he said he could afford from his usual income. (If this had been implemented, it would have been £552.97 a month.) The bank asked him to fill in an I&E form first, which I think was reasonable. Meanwhile, the bank said it would send him a default notice; but it agreed to delay doing that until Mr C had updated his postal address, because he explained that he no longer lived at the address the bank then had on file, which was his mother's.
- In August, the bank had not received a new address or an I&E form, so it decided to send a default notice to Mr C's last known address. The arrears were £950.54.
- The next day, Mr C completed the I&E form over the phone. As I've said, this showed that his expenditure exceeded his income, and so he had no disposable income. Accordingly, the bank concluded that Mr C could not afford a new payment plan, as the agreement was simply not affordable. Mr C had other creditors and was in long term debt.

I interject here to observe that this was a reasonable conclusion for the bank to reach. And there would have been no sense in allowing Mr C to go through the I&E form a second time so that he could try and make his income appear to exceed his expenditure, as that would have defeated the object, which was to try and find out an accurate picture of his finances so that the bank could reach an informed opinion about what to do.

- On the same call it was agreed that the bank would email the default notice to Mr C because he was unable to provide a current postal address.
- In a later call (also in August), the bank again advised Mr C that it could not set up a payment plan he could not afford, because that would just put him in further financial difficulty. He indicated that he wished to complain.
- In September 2023 the agreement was terminated.

After reviewing the above history, I am unable to agree that the bank failed to assist Mr C or to exercise reasonable forbearance and patience with him. I think it did enough to try and help him, in particular by refinancing the agreement to clear his arrears, but that ultimately he was unable to afford the agreement. When that became undeniably apparent, the bank

had no choice but to default and terminate the agreement, because to keep it going would only have prolonged Mr C's financial difficulties. The bank also gave him advice about how to reduce his outstanding debt, by exercising his right to either voluntarily surrender or voluntarily terminate, but it could not force him to do either of those.

I do not uphold Mr C's complaint about that.

### The second phone call

I have listened to the call recording. It does fall short of the professional standard of service that Mr C was entitled to. The call handler laughed slightly as she was reading out the amount of Mr C's outstanding balance, and then lied about it by pretending she had just hiccupped. Mr C didn't believe her, and the call handler apologised. He accepted her apology and the call continued. I think that episode was unfortunate, but it was not so bad as to merit financial compensation.

Sometime later, Mr C became annoyed because the call handler hadn't known that he had cataplexy. However, the call handler explained that she knew he suffered from seizures, and that she just hadn't known that condition was called cataplexy. The important thing is that she knew that he had the condition, and so I do not agree that this was a real shortcoming in the service provided on the call.

Half an hour into the call, the call handler told Mr C to "be quiet," because he was talking over her while she was trying to explain something to him. I think that request could have been phrased a bit better, but otherwise it was not an unreasonable thing to ask for.

Shortly after that, the call handler asked him "do you know what my disabilities are sir?" in response to Mr C telling her that she didn't know the exact specifics of his own disability. Later, she told him "You log a complaint about me and let's see what happens." And later on, she said "Just because you want something, doesn't mean it's going to happen. I want a Ferrari, but it's not going to happen." I think that each of those three comments were unprofessional, and that they should not have been said.

If that had been representative of the call as a whole, then I would probably have awarded some modest compensation for that, as I think the call handler was rude in that section of the call. But most of the call (which was 90 minutes long) was not like that at all, and afterwards the tone of the call and the relations between Mr C and the call handler improved. Those comments were made during a phase of the call which I think was challenging for both parties. Overall, I think that while the customer service on that call was intermittently poor, I do not think it was so bad that I should award compensation for it.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 April 2024. But apart from that, this final decision brings to an end our service's involvement in this case.

Richard Wood  
**Ombudsman**