

The complaint

Ms W has complained about her mortgage she holds with Santander UK Plc. She said she asked for an extra payment she made to be left as a credit on her mortgage account, however it was then used over the following five months to cover her monthly mortgage payments.

What happened

Ms W has a mortgage with Santander and she was in arrears. She had a lump sum available and on 1 October 2018 she phoned Santander to clear her arrears, change the payment due date on the account, and she asked that the remainder of the lump sum be left on her mortgage account as a buffer in case she had financial difficulties in the future and was struggling to pay her mortgage. A payment of £4,200 was made by Ms W.

On 4 October 2018 Santander wrote to Ms W to confirm receipt of the overpayment of £3,045.41 (which was the sum left once the arrears were paid). The letter set out what payments were due and when and said the overpayment will be used to cover any shortfall in the monthly payment until the credit was used in full.

On 8 October 2018 Santander wrote to Ms W to say the payment date for her mortgage had been changed to the 5th of each month and it set out what payments were due and when.

As Ms W didn't have a direct debit set up on her account, and she didn't make her monthly payments in another way, the credit was used up making the next five monthly payments.

In February 2019 Ms W complained to Santander about what had happened.

In its response Santander said it would be paying £25 compensation to Ms W as it said the agent should have said on the phone that there is no benefit to having a credit on the mortgage account, and that it would be used towards the mortgage payments. However, it said that information was contained within a letter it sent to Ms W on 4 October 2018, and Ms W would have had the £576.80 monthly payment still in her account each month as the mortgage payments hadn't been made.

Unhappy with Santander's response, Ms W referred the complaint to our service. She said that as a student on placement, as well as having two jobs, she didn't have time to check up on things after the phone call. She explained to Santander on the phone the purpose of her call and was told she could do that and a letter would be sent. She said she didn't receive the letter so had no prompt to check the payments made, and she had been left severely financially affected as she'd got used to overspending due to having the extra amount in her account from the mortgage payments not being made. To resolve matters Ms W said she wanted compensation to restore the buffer she intended to have, and that she wanted Santander to change its policy so a customer can call and make an overpayment just like you can call to pay if you miss a payment.

Our Investigator didn't uphold the complaint. He said he understood Ms W was busy at the time, but she should have been aware there was no direct debit in place, and it was

expected that customers keep an eye on their accounts. He thought £576 was a fairly large amount of money for Ms W to have not noticed that it had not left her bank account, and having those additional funds in her bank account should have made her aware of the issue.

Ms W didn't agree. She said it would have been very clear from the call that her intention was to overpay her mortgage, and that she should be able to phone up and overpay her mortgage if she wants to, and it should be easy to do. She accepted that she should have noticed the amount of money in her bank account, but said that shouldn't take away from the fact the situation shouldn't have occurred in the first place. She said she was working two jobs, as well as being a student with a placement, and that is why she did not have the time to undo the mistake. She hadn't asked for all the money back, but it had caused her a lot of hardship and she didn't think £50 was a reasonable offer for that.

Our Investigator said the process to make the overpayment was simple and worked in the manner intended, but the issue was that Ms W stopped making payments to her mortgage account in August 2018 which is why the buffer was used up. He said Ms W had called to pay the arrears that had accrued from the previous two payments not being made, so it should have been clear to her that there was no payment method set up to collect the payments on her mortgage account. The adviser said the next payment was due on 5 November 2018, and Ms W was sent two follow-up letters. He said that if Ms W had made her mortgage payments, then the overpayment would still be sitting on the mortgage account as she intended.

Ms W said it isn't fair to link the payment of the arrears and the intended overpayment in that way, she said she was just pointing out that in the past she'd been able to pay her arrears over the phone, and it was sorted out with one phone call. Ms W said it should have been very clear from the call what her intention was, and she was being penalised for not receiving the letters from Santander. Ms W said the Investigator had sided with the bank and refused to get Santander to change its policy so it doesn't happen to someone else.

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.

Ms W has explained why she considers the actions of Santander to be unfair. I'd like to reassure Ms W that I've read all her comments and given them careful consideration. This service is impartial between, and independent from, consumers and businesses. Ms W has said that all our Investigator has done is sided with Santander. We're required to decide what's fair and reasonable having assessed all of the available evidence from the parties. I'm satisfied that's what the Investigator did in Ms W's case. Insofar as our Investigator didn't agree with Ms W on the outcome of her complaint, that isn't in itself indicative of siding with the bank, however unwelcome she will have found his conclusions.

I've considered all the submissions made by both sides, and I've listened to the call very carefully and having done so I don't uphold this complaint. I'll explain why.

Ms W said she wanted to pay £4,200 to clear the arrears and pay a bit extra. She said she then wanted to change the due date for the mortgage as the current date wasn't working for her due to her getting paid weekly for one job and monthly for the other. She said she wanted the payment due date changed from the 27th of the month to the 5th of the month.

Santander said an additional £52 of interest would be due on 5 November on top of the

normal instalment and Ms W said that was fine. It was agreed that the extra amount Ms W was paying would sit as a credit on the account. The call ended with the call handler advising the credit would sit on the account and the due date would be the 5th of the month going forward.

Whilst Ms W says she didn't receive the letters from Santander dated 4 and 8 October 2018 I can see these are both correctly addressed to Ms W and there's no record of them having been returned as undelivered. That said, this complaint doesn't turn on whether or not Ms W received those letters.

At the time in question Ms W controlled her mortgage payments (rather than Santander calling for them as it would with a direct debit). That's because the direct debit mandate had been cancelled in August 2018 and she hadn't set a new one up, both things Ms W ought reasonably to have been aware of.

By February 2018, when Ms W phoned to set up a new direct debit and to raise the complaint, she'd had £576 extra in her bank account every month for four months, a sum of around £2,300 after the four months. Whilst I acknowledge Ms W was busy, I think she ought reasonably to have been aware that she had more money than she expected each month, especially in the circumstances where she'd recently been in financial difficulties and she'd needed to change the payment due date as the previous one wasn't working out for her with her pay. £576 every month was a fairly significant sum and I don't think it was something that could get easily overlooked in day to day spending.

Santander had no way to collect the money as there was no active direct debit mandate in place, so the only way the mortgage could be paid each month was by Ms W making payments manually as she'd needed to do in October 2018 to clear the arrears. When she didn't make her contractual monthly payments, Santander used the credit sum to keep the account from going back into arrears which is what I would have expected it to do.

As a rule a consumer has a duty to mitigate their losses and Ms W had a responsibility to ensure her mortgage payments were made. Had Ms W just missed one payment, there could be a strong argument that was a one-off oversight. But here she missed four payments before she contacted Santander, totalling around £2,300.

Having considered everything, I'm satisfied Santander is not responsible for the missed payments so it follows I'm satisfied Santander is also not responsible for the fact the credit balance was not used in the way that Ms W intended.

There seems to be some confusion as Ms W has said that she should be able to phone up and overpay her mortgage if she wants to, and it should be as easy to do that as it is to clear the arrears on a mortgage account.

But it is - and was - that easy. Ms W did phone up and did overpay her mortgage. That isn't the part that went wrong. Had Ms W then made her monthly mortgage payments when they fell due then the credit would have remained on the account as Ms W intended. Things only went wrong because Ms W then didn't make her monthly mortgage payments so the credit balance was used to cover those to stop Ms W going straight back into arrears.

Ms W said that our Investigator refused to get Santander to change its policy or to stop misrepresenting its products in TV adverts, but as our Investigator explained to Ms W that isn't something we can make Santander do. We're not the regulator, that's the Financial Conduct Authority, and we simply don't have the power to make a business change its policies or its advertising. We look at each complaint individually and what may or may not

happen in the future to other customers isn't something I can consider here – or make any orders about - when deciding Ms W's complaint about what happened to her.

Santander has paid £25 compensation to Ms W as it said the call handler should have explained there was no benefit to having a credit on the mortgage account, albeit it said its follow up letter of 4 October 2018 explained this. Having considered everything I'm satisfied that is a fair award for that issue.

Whilst I acknowledge Ms W's strength of feeling, I'm satisfied Santander did nothing wrong in using the credit amount to cover the payments Ms W didn't make to her mortgage, and therefore I make no order or award.

My final decision

I don't uphold this complaint in the sense that I'm satisfied the £25 already paid by Santander is fair and reasonable in all the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 12 March 2024.

Julia Meadows
Ombudsman