

The complaint

Miss M complains that Santander UK Plc lent irresponsibly when it approved a loan application in July 2020.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

In July 2020 Miss M applied for a loan of £2,000 with Santander over a four year term. In her application, Miss M said she was employed with a monthly income of £1,600. Santander says Miss M gave outgoings of £700 a month, leaving £900 disposable income to cover the loan repayments of £63. Santander says it used £170 for accommodation costs plus £670 for other living expenses in its lending assessment. Santander carried out a credit search and found Miss M owed around £3,900 to credit card providers and £1,500 for an overdraft. The overdraft in question was on a current account that Miss M holds with Santander.

Santander says it applied its lending criteria and found Miss M had sufficient disposable income to manage loan repayments of £63 a month. The funds were released to Miss M and paid into her Santander bank account which brought the balance back into credit. But in the months that followed, the loan funds were depleted via everyday spending and the account returned to an overdrawn position.

In 2022 Miss M complained to Santander about overdraft charges that had been applied to her current account. When Miss M referred her complaint to this service, Santander agreed to refund all charges that had been applied from September 2018 onwards, plus interest. The funds were used to reduce Miss M's overdraft balance.

Last year, Miss M complained that Santander had lent irresponsibly when it approved her loan application in July 2020. Santander issued a final response on 18 September 2023 but didn't agree it had made a mistake or failed to carry out the necessary checks. Santander didn't uphold Miss M's complaint.

An investigator at this service looked at Miss M's case. They weren't persuaded that Santander had lent irresponsibly and didn't ask it to do anything else. Miss M asked to appeal and said her paid income was significantly lower than the £1,600 figure noted in the application. Miss M also pointed out she'd been consistently overdrawn for a long time and that Santander had access to her current account statements so would've been aware of how the account had been managed. Miss M also said she was on a three month payment holiday for another lender at the time of her application. As Miss M asked to appeal, her complaint has been passed to me to make a decision.

What I've provisionally 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.

Before agreeing to lend, the rules say Santander had to complete reasonable and proportionate checks to ensure Miss M could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;*
- The total sum repayable and the size of regular repayments;*
- The duration of the agreement;*
- The costs of the credit; and*
- The consumer's individual circumstances.*

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstance by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I've considered the available information but have reached a different conclusion to the investigator in this case. Like Miss M, I think it's fair to note that she already had a current account and associated overdraft with Santander at the time of her application. I've looked at Miss M's account statements going back to the beginning of January 2020. They show that between 1 January 2020 and 15 July 2020 (when the loan funds hit Miss M's account) she was consistently overdrawn without the account retuning to a credit position. I would have expected Santander to have had systems in place to monitor Miss M's account for signs she was in, or approaching, a persistent debt situation. So I'd have expected Santander to have been aware that Miss M's current account had been overdrawn for an extensive period of time. Given that an overdraft is intended to be a short term lending option, I'm satisfied that Santander ought to have been aware that an overdrawn balance over a long period of time is often a sign of financial difficulties.

So when Miss M applied for more borrowing in July 2020, I'm satisfied Santander should've factored the position of her current account into any lending assessment it made. And given the length of time Miss M had been overdrawn for, my view is that a more comprehensive set of checks should've been completed before Santander approved the loan. I haven't been persuaded that Santander carried out reasonable and proportionate checks when assessing Miss M's loan and think it should've done more to check whether repayments were sustainable in the long term.

There's no set checks that a lender has to complete. But here, Santander was Miss M's current account provider so it had access to her statements. I'm satisfied a reasonable way to have more comprehensively checked whether Miss M was able to afford further borrowing would've been to review those statements which is what I've done.

Miss M's explained that when she applied for the loan she was a new mother and on maternity leave. Miss M's pointed out that her statements show the pattern and source of her income changed substantially in 2020. I've reviewed the statements and can see Miss M was taking home around £1,500 a month from her job in the first three months of 2020. But by May 2020, Miss M's earned income reduced to £1,150, in June 2020 it was £698 and in July 2020 it was £697. So whilst Miss M was still receiving income from her employer each month, it was substantially less.

Miss M's also pointed out the benefits she received were intended to support the additional costs of having a child. I think that's a reasonable point and I agree with Miss M that her current account statements show a different picture to the information recorded in the

application. If Santander had reviewed Miss M's statements I'm satisfied it would've found a substantial amount of her income was derived from benefits. And I think that should've prompted Santander to find out more about Miss M's circumstances to verify whether they were sustainable in the long term.

I also think it's fair to note that a review of Miss M's statements would've shown she made regular payments totalling £550 by standing order each month which appears to be for rent. That's substantially higher than the £170 figure Santander says it used in its lending assessment. And Santander used an overdraft figure of £1,500 but Miss M's bank statements show the balance generally reached between £1,700 and £1,800 each month before she was paid.

Santander may argue that, on paper Miss M's loan was affordable. But looking at Miss M's statements going back to the start of 2020, they don't appear to show any capacity for her to have afforded further repayments. Miss M's monthly income was almost always used up in its entirety on essential spending and everyday living costs. I've not seen evidence that shows Miss M had disposable income left each month that would've meant she could sustainably repay a new loan and retained a sufficient amount for emergencies or unexpected expenses. And I'm satisfied a review of Miss M's bank statements would've shown that to Santander.

Overall, I'm satisfied that if Santander had carried out more thorough checks, like looking at Miss M's bank statements, it would've found she wasn't in a position to sustainably make further repayments and declined her application for a new loan in July 2020. Based on the information I've seen so far, I intend to uphold Miss M's complaint and direct Santander to settle by refunding all interest, fees and charges applied to the loan from inception.

I invited both parties to respond with any additional points or information they wanted me to consider before I made my final decision. Miss M confirmed she was happy to proceed with the settlement I noted in my provisional decision. We didn't hear back from Santander.

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.

As neither party has provided new information for me to consider, I see no reason to change the conclusions I reached in my provisional decision. I still think Miss M's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Miss M's complaint and direct Santander UK Plc to settle as follows:

- Re-work Miss M's loan so all interest, fees and charges applied since inception are refunded

AND

- If an outstanding balance remains once these adjustments have been made, Santander should contact Miss M to arrange a suitable repayment plan for this. Once the balance has been repaid, any adverse information recorded on Miss M's credit file should be removed

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and

returned to Miss M, along with 8% simple interest on the charges from the date they were made until the date of settlement. If no outstanding balance remains after all adjustments have been made Santander should remove any adverse information from Miss M's credit file. †

† HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Miss M a certificate showing how much tax they've taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 30 April 2024.

Marco Manente
Ombudsman