

## **The complaint**

Mr J complains about credit granted to him by Santander Consumer (UK) Plc.

Mr J brought his complaint to us via a representative but I will refer to him throughout for simplicity.

## **What happened**

Santander agreed credit for Mr J on 9 December 2018 to finance a car. The cash price of the car was £15,500 and Mr J borrowed the full amount. The total amount owed under the agreement came to £18,988.20 including interest and fees. This was to be repaid in 48 monthly instalments of £260.34 with a final payment of £6,491.88. The repayments began in January 2019.

The credit was granted under a conditional sale agreement. This meant Santander remained the owner of the car until the credit was repaid. By January 2023, Mr J had repaid the credit, including the final balloon payment. He paid by direct debit, and met his payments on time for the first 18 months.

Mr J complained to Santander in January 2024 that it shouldn't have entered into the credit agreement with him because he was struggling financially at that time and unable to afford the repayments. He said that Santander didn't carry out adequate checks beforehand and it should have seen that he wasn't managing to meet his existing debts. Mr J said he ended up having to borrow to meet the repayments and was reliant on his overdraft.

Santander didn't uphold Mr J's complaint. It said that Mr J had low monthly credit commitments, and there were no outstanding defaults, short term loans or any other negative information displayed on his credit record that would have raised concerns about his ability to repay the credit.

Mr J wasn't happy with this response and referred his complaint to us. Our investigator looked into things and found that while Santander should have carried out further checks before lending to Mr J, such checks wouldn't have resulted in a decline. They didn't recommend that Mr J's complaint be upheld.

Mr J didn't agree with this recommendation. He asked for the complaint to come to an ombudsman for a decision and it was passed to me. I issued a provisional decision on 11 December 2024 explaining why I wasn't minded to uphold Mr J's complaint. I shared the information I'd relied on and allowed time for the parties to send me any comments or new information to consider. I've had no responses from Mr J or 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.

Having reviewed everything again and, having no comments or new information from either party, I've seen no reason to depart from my provisional conclusion. I'll set out my reasons for not upholding Mr J's complaint again in this final decision.

The Financial Conduct Authority was the regulator when Santander lent to Mr J. Its rules and guidance said that before agreeing credit for him, it needed to check that he could afford to meet his repayments out of his usual income and/or savings without having to borrow further and without experiencing financial difficulty or other adverse consequences. The assessment needed to be proportionate both to the nature of the credit (the type of credit, amount or term, for example) and to Mr J's particular circumstances. Ultimately, Santander needed to treat Mr J fairly and take full account of his interests when making its lending decision.

With this in mind, my main considerations are did Santander complete reasonable and proportionate checks when assessing Mr J's application to satisfy itself that he would be able to make his repayments without undue difficulty? If not, what would reasonable and proportionate checks have shown? Would this information have led to the credit being declined? Ultimately, did Santander make a fair lending decision? Did it treat Mr J unfairly in any other way, including whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974?

Santander said that it reviewed Mr J's credit file before offering him credit, and found that he had a good credit score and met its lending criteria. Santander provided a summary of the information it gathered from Mr J's credit file at the time via a credit reference agency. This showed that Mr J's existing debt amounted to £700, his monthly credit commitments amounted to £120, and no adverse markers were reported.

Santander noted that Mr J was living with his parents and had been employed for a year, but didn't provide further detail about what it found out through its affordability check. I think it would have been reasonable and proportionate of Santander to have gathered information about Mr J's income and expenditure to check that he would be able to afford to meet the repayments of £260 over the four year term. Without further evidence I can't say that Santander's checks were proportionate on this occasion. I've considered what a proportionate affordability check might have revealed.

Mr J provided his bank statements for several months before and after the credit agreement began. He also provided a recent copy of his credit report dated June 2024. I'm not suggesting this is the type of information that Santander ought to have reviewed but it is the information I have available and I think it's reasonable for me to rely on it to consider what a proportionate check would likely have revealed about Mr J's income and expenditure.

Mr J said that he was on a low income when he entered into the agreement, was reliant on his overdraft and borrowing from high cost lenders. For example, he'd taken out a £2,000 loan two months prior to this credit and had defaulted on six direct debit payments in the previous six months.

Mr J's credit report shows that a loan with repayments of £120 a month (reflecting the information Santander gathered) completed the month before the Santander agreement began. Neither the £2,000 loan nor the defaults Mr J referred to are shown on his credit report. It looks from the bank statements that Mr J might not have been the borrower but the guarantor for the loan mentioned, which might explain why it wasn't reported to his credit file. And the defaults may not have been reported to the credit reference agency that Santander used.

There are many transfers into the account by Mr J along with deposits from others, which Mr J told us was borrowed money. Leaving these aside, the obvious income deposits amounted to:

August 2018	£1,533
September	£663
October	£483 (including a DWP benefit payment)
November	£0
December	£801
January 2019	£1,033
February	£1,790
March	£1,252

Mr J told us he wasn't paying towards rent or a mortgage but he had other costs of about £220 on average. There aren't many identifiable non-discretionary outgoings shown on Mr J's bank statements - he spent on average £75 a month on petrol and between £20 and £60 on energy bills (across December to March 2019), and his credit file shows car insurance payments of £107 a month.

The bank statements show that Mr J was fully using his overdraft (with a limit of around £600 to £700) and had been for some months, and he'd had several returned direct debit payments. I think it's clear that Mr J wasn't earning very much prior to the agreement, and was reliant on his overdraft and possibly borrowing from others. I think this information could have raised serious concerns for Santander about Mr J's ability to meet his repayments out of his usual means, despite his relatively low levels of existing debt and outgoings.

However, in December 2018 Mr J began earning from a different source and from another in February 2019. By March 2019 Mr J was out of his overdraft and it was reported as a zero balance from then for at least three years. I think it's more likely than not that a reasonable and proportionate check on Mr J's means by Santander would have not only revealed that his finances were temporarily pressured, but also that he would be earning sufficient income to afford the repayments for the agreement. The regulations in place at the time stated that lenders could take into account an expected future increase in income (CONC 5.2A.15) and I don't think it would have been unreasonable for Santander to have done so in this case.

As mentioned, by January 2023, Mr J had repaid the credit, including the final balloon payment. He paid by direct debit, and met all his payments on time for the first 18 months. Thereafter he missed several payments. I don't know the reason for these missed payments, but he usually caught up within a week. I can see that Mr J entered into another hire purchase agreement with Santander later in 2023, which is ongoing.

Altogether, I can't say that Santander got something wrong in its assessment which then impacted adversely on Mr J's finances. I haven't found Santander was irresponsible to lend to Mr J or that it treated him unfairly, and I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. It follows that I am not upholding Mr J's complaint.

### **My final decision**

For the reasons I've explained above, I am not upholding Mr J's complaint about Santander Consumer (UK) Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 3 February 2025.

Michelle Boundy  
**Ombudsman**