

## **The complaint**

Miss L complains that Santander UK Plc defaulted her account whilst she was in breathing space.

## **What happened**

Miss L holds a credit card with Santander. In January 2024 Miss L was unwell and had to take time off work. She was unable to make /payments to the card.

Miss L contacted Santander and requested that interest was suspended in order that she could make payments to reduce the balance.

Santander agreed breathing space for 30 days.

Miss L spoke to Santander again in June 2024 and a further breathing space of 30 days was agreed.

Breathing space ended in early July 2024 and collections activity resumed on the account. On 12 July 2024 Santander issued a Default Notice.

Miss L contacted Santander on 19 July 2024 and a further breathing space of 30 days was agreed. The advisor requested that Miss L call back after 30 days and warned that the account could be defaulted.

Breathing space ended on 19 August 2024. Santander didn't hear from Miss L and the account was defaulted on 22 August 2024.

Miss L contacted Santander on 27 August 2024 and the advisor he spoke to agreed further breathing space of 30 days. The advisor omitted to notice that the account had already defaulted and that therefore breathing space could no longer be applied.

Santander contacted Miss L on 30 August 2024 to advise her that the account had already defaulted so breathing space wasn't applicable, and it was no longer possible to agree a payment plan.

Miss L complained to Santander. She said she'd been misled into thinking she had time to seek advice regarding her credit card and had been reassured that no action would be taken. Miss L requested that the default was removed, and a payment plan arranged.

Santander issued a final response on 4 September 2024. It apologised that Miss L had been given misinformation on the call dated 27 August 2024 but said this hadn't impacted on the account defaulting as the account had already been defaulted by this date. Santander said it hadn't made an error by reporting the default and therefore it wouldn't be amending the data at the credit reference agencies.

Miss L remained unhappy and brought her complaint to this service.

Following the referral of the complaint to this service, Santander reviewed the complaint and

acknowledged that it had made an error by applying breathing space when the account had already defaulted. It acknowledged that it had provided poor customer service to Miss L in this respect and offered compensation of £100 for the distress and inconvenience caused. It said that the default had been correctly applied in line with the terms and conditions of the account and it was unable to remove it.

Our investigator thought the offer was fair. He said there had been some service issues and that Miss L had been given incorrect advice that the account could be put in breathing space when the default had already been issued, but ultimately, he thought that Santander had correctly applied the default to Miss L's account.

Miss L didn't agree. She said that when she received the Default Notice dated 12 July 2024, she'd contacted Santander and agreed with the advisor that the default wouldn't be registered and that she would be given further breathing space. Miss L said she'd been given further breathing space from 19 July until 19 August and that she'd received a letter dated 5 August 2024 confirming this. Miss L said she'd contacted Santander again by the time specified in that letter and was given further breathing space until 26 September 2024. Miss L said she didn't think £100 compensation was sufficient in circumstances where she'd had a default registered against her which should have been avoided had Santander not broken the agreement they had reached with her.

Because Miss L didn't agree I've been asked to review the complaint.

### **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 know it will disappoint Miss L, but I agree with the investigators opinion. I'll explain why.

I've read and considered the whole file, but I'll concentrate my comments on those points which are most relevant to my decision. If I don't comment on a specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I've reviewed the history of the account. I've also reviewed the system notes and I've listened to the calls that Miss L had with Santander.

I can see that the account fell into arrears in January 2024. Miss L contacted Santander and asked for interest to be suspended. Miss L completed an income and expenditure form at this time which showed that her outgoings exceeded her income and that she wasn't able to make payments to the credit card.

The system notes show that Santander agreed breathing space until 27 May 2024. They also record that Miss L was requested to contact Santander again before the breathing space expired. I can see that Miss L contacted Santander on 4 June 2024, which was after the breathing space had expired. A further 30 day period of breathing space was agreed until 4 July 2024 with the same requirement for Miss L to contact Santander before the breathing space expired. I can see that Miss L contacted Santander on 19 July 2024, which was after the breathing space had expired. By this time, and because they hadn't heard from Miss L, Santander had issued a Default Notice dated 12 July 2024.

I can see that when Miss L contacted Santander on 19 July 2024, she acknowledged receipt of the Default Notice. She said that her circumstances hadn't changed, and she still couldn't afford to make any payments. Santander agreed a further 30 day period of breathing space

until 19 August with the requirement for Miss L to contact Santander to pay the arrears of agree a payment plan before the breathing space expired. On the call, the agent warned Miss L that the account could proceed to default if Miss L didn't take action within the timescale specified.

Miss L has said that she contacted Santander again within the timescale specified. However, my review shows that Miss L didn't contact Santander until 27 August 2024, which was over a week after the latest period of breathing space had expired. By this time, Santander had defaulted the account on 22 August 2024.

I don't think Santander made an error or treated Miss L unfairly when it defaulted the account on 22 August 2024. Santander had warned Miss L that this could happen. And Miss L hadn't contacted Santander before the breathing space expired on 19 August 2024. Santander – like all providers of credit – is obliged to have regard to the relevant ICO guidelines which say that an account can be defaulted when it is between three and six months in arrears. To allow arrears to accrue beyond this would be irresponsible and place the consumer in a position where they would fall further and further into debt, making it more difficult to repay the account balance.

I can see that when Miss L called Santander on 27 August 2024, the agent agreed a further period of breathing space. Based on what I've seen, the agent shouldn't have agreed this, because the account had already been defaulted. Santander has acknowledged that the agent made an error when they told Miss L that further breathing space had been applied. Once an account has been defaulted, it isn't possible to apply breathing space.

I've thought about the impact that the agent's error had on Miss L. Miss L's financial circumstances hadn't changed so she wasn't in a position to pay the arrears or agree a payment plan. So, although Miss L has said that she was denied the chance to agree a payment plan, I can't see that Miss L was able to do so. I appreciate that Miss L was given incorrect advice when the agent agreed further breathing space on 27 August 2024, but based on what I've seen, the account had already been defaulted by this time, so the incorrect advice didn't change the status of the account.

I've thought about whether Santander treated Miss L unfairly or unreasonably here. Where a consumer is experiencing financial difficulties, this service would expect a provider of credit to show forbearance. Based on what I've seen, I'm satisfied that Santander took reasonable steps to support Miss L. It agreed several periods of breathing space notwithstanding that its process states that breathing space should only be applied once, with any further periods of breathing space requiring approval from senior management. The fact that Santander agreed several periods of breathing space without reverting to senior management is a service failing, but it also delayed the account from defaulting which benefitted Miss L.

Looking at what happened, I'm unable to say that Santander made an error when it defaulted the account. However, I do recognise that telling Miss L on 27 August 2024 that breathing space was being applied after the account had already defaulted caused her unnecessary stress. I think Santander could've provided better customer service to Miss L in this respect.

Following the referral of the complaint to this service, Santander offered Miss L compensation of £100 by way of apology for the trouble and upset caused by incorrectly applying breathing space on 27 August 2024. I think this is a fair and reasonable way to resolve the complaint.

**Putting things right**

To put things right, Santander must pay compensation of £100 to Miss L.

**My final decision**

My final decision is that I uphold the complaint insofar as I think Santander should pay compensation for the trouble and upset caused by the incorrect information. For the avoidance of doubt, I think the account was correctly defaulted. Santander UK Plc must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 29 April 2025.

Emma Davy  
**Ombudsman**