

The complaint

Mrs and Mr R complain that Santander UK Plc irresponsibly gave them an overdraft facility and it continued to unfairly apply overdraft charges when they were struggling financially.

What happened

In May 2018, Mrs and Mr R applied for a £200 overdraft facility for a joint current account with Santander. The overdraft was approved and the limit was increased six times until it was increased to £4,000 in June 2019.

In March 2024, Mrs and Mr R complained to Santander to say that it should not have increased their overdraft limit. Mrs R also complained about a credit card and loan given to her by Santander (however, the credit card and loan don't form part of this decision). Mrs R said that she had a gambling addiction and was always overdrawn. She said that Santander ought to have seen she was struggling and not granted her further credit.

Santander didn't agree it had acted unfairly when granting the overdraft facility. It said that it had carried out appropriate affordability checks before granting each limit increase. Santander didn't agree that the account activity and conduct ought to have prompted it to offer any further financial support.

I sent Mrs and Mr R and Santander my provisional decision on 28 February 2025. I explained why I wasn't planning to uphold the complaint. I said:

There are two key issues for me to decide. First, whether Santander acted fairly in lending to Mrs and Mr R by providing an overdraft and subsequently increasing the limit, and second, whether it ought to have identified signs of financial difficulty and stepped in to help. I'll deal with each of these issues in turn.

The lending decisions

Before providing the overdraft and subsequent limit increases, Santander was required to complete checks to ensure the lending would be affordable to Mrs and Mr R. There isn't a set list of checks it had to carry out, instead, the rules required the affordability checks to be proportionate to the specific circumstances of each lending decision. This means that what information and evidence Santander needed to review might be different for each lending decision. In deciding what would be proportionate, it needed to take into account things such as (but not limited to): the amount of credit, the type of credit being provided, the cost of borrowing and the individual circumstances of the borrower(s).

Santander hasn't provided the granular detail of the result of the checks it carried out for each overdraft limit increase. It says it would have gathered information about Mrs and Mr R's income and completed a credit check.

I've seen a copy of Mrs R's credit report dated from 2021, which shows her historic credit commitments. I think it's reasonable, in the absence of anything provided by

Santander, to rely on the information contained in that report as a reflection of what Santander likely saw when it granted the overdraft in 2018 and subsequent increases until 2019. I've also seen copies of the Santander current account statements since 2018 which detail Mrs and Mr R's income and regular expenditure. As Santander ought to have taken into consideration what it knew about its customer(s) when granting further borrowing, I think it's reasonable for me to take into account the information contained in these bank statements.

Having reviewed the available information, I'm satisfied that Santander completed proportionate affordability checks on all the overdraft lending decisions. At the outset, I think the initial £200 limit was low when compared to Mrs and Mr R's income and I think Santander did enough by completing a credit check and asking about income. For the subsequent limit increases, Santander would have had sight of Mrs and Mr R's account activity which showed their regular income and expenditure and the credit check would likely have revealed any other borrowing not necessarily visible on the current account. I think this ensured Santander had a reasonable amount of information and evidence to be able to reach a conclusion on whether each limit increase would be affordable.

I've therefore thought about whether I think the lending decisions were fair, based on the information Santander gathered. Having done so, I'm satisfied that they were, and I'll explain why.

From reviewing Mrs R's credit file and bank statements, I've not seen any evidence to indicate that at any point prior the final limit increase to £4,000 which happened in June 2019, it ought to have been clear to Santander that she (or Mr R) were in financial difficulty or that the overdraft borrowing would be unaffordable to them.

In 2018, Mrs and Mr R's monthly income into the current account was around £5,700 and other than a temporary increase to this income in early 2019, it remained largely the same for all of the limit increases. This appeared to be significantly more than their monthly regular, essential expenditure. The bank statements evidence that Mrs and Mr R were regularly depositing excess funds into savings accounts, premium bonds and/or investment accounts. These amounted to several hundred pounds each month. The information shown on Mrs R's credit file doesn't indicate any clear signs of over indebtedness at this time either.

By the time of the final limit increase, I haven't seen anything to indicate that Mrs and Mr R's financial circumstances were materially different to when the overdraft was first agreed. While they were now utilising the overdraft facility they had been given, that is exactly what the overdraft was intended for and they were regularly placing the account into a healthy credit balance. Further, the level of income (and crucially, disposable income) they had available appeared to be sufficient to service an overdraft of £4,000 without causing financial difficulty. For all these reasons, I don't think Santander made an unfair lending decision in granting the overdraft or increasing the limit up to £4,000.

Financial difficulty

I can see Mrs and Mr R reached out to Santander in December 2022 and at this stage Santander put a stop to all overdraft charges and agreed a repayment plan as well as an overdraft reduction plan. I think this was a fair way for Santander to assist at that time. So, what is left for me to decide is whether Santander ought to have realised at an earlier point that Mrs and Mr R were struggling and stepped in to offer assistance.

Mrs and Mr R have referred to large volumes of gambling on their current account as a reason why Santander ought not to have increased the overdraft limit and/or stepped in and helped them. While there were large sums being used towards gambling transactions, I don't think in the very specific circumstances of this case that ought to have caused Santander to step in and take any action.

It's arguable the amount of gambling might have prompted Santander to carry out some kind of review of Mrs and Mr R's account, due to the potential for their being harm. However, I don't consider that any review would or should have prompted it to have taken any further action in this specific case.

I say this because within the context of Mrs and Mr R's income, what their disposable income appeared to be, and how they were servicing their overdraft and account more generally, I don't think the level of gambling (when taking their individual circumstances into consideration) would have been obviously harmful.

Had Mrs and Mr R been clearly utilising more than they could reasonably afford on gambling, I may have taken a different view. And I do accept it's possible that is exactly what was happening. However, I'm not persuaded that would have been abundantly clear to Santander had it reviewed the account activity more closely in this case.

It appears the gambling activity on the account was sporadic and didn't seem to exceed the normal monthly disposable income they had available. Further, the gambling activity reduced significantly in 2019 and 2020, compared to 2018). There were several months where there were no gambling transactions at all, including prior to some of the limit increases.

It appears that the funds Mrs and Mr R were using for gambling were from any leftover funds after essential expenditure had been accounted for. I say this because despite the gambling transactions, they were still able to meet all their regular commitments out of their income and put money aside for savings and investments. So, I don't think it would be fair for me to conclude that Santander ought reasonably to have taken proactive steps to limit Mrs and Mr R's use and access to an overdraft because of any gambling transactions it ought to have seen.

Having said this, I note that in January 2021, the current account began to go over the agreed overdraft limit (seemingly unrelated to gambling activity). Further, there were some instances of direct debits being returned for insufficient funds, including a payment towards a Santander credit card. However, I don't think this in isolation ought to have caused Santander any immediate concerns. This is because Mrs and Mr R's monthly income had appeared to have increased, and they had been regularly overpaying the minimum payment on the Santander credit card. Further, after the direct debit was returned, funds went into the current account to clear the overdraft in full and put it in a large credit balance and Mrs and Mr R then made a substantial overpayment on the credit card.

While I can see that the account occasionally went over the agreed overdraft limit in the following months and there was the occasional returned direct debit, from around May 2021 onwards, Mrs and Mr R began to repay larger sums off from their existing debts, including the Santander credit card. This appeared to be through a combination of an increasing income, a consolidation loan (which paid off some debts including the overdraft) and a large deposit from relatives of £20,000. There was also a further cash deposit from an unknown source of around £21,000 in December 2021 which they used to clear further debts.

In early 2022, it seems the monthly income coming into the account was around £8,000 (and in some months exceeded £9,000). The number of overall creditors appeared to have reduced (although their mortgage had increased substantially) and surplus disposable income was regularly transferred to savings and investment accounts. While Mrs and Mr R were regularly overdrawn almost to the full limit and sometimes went a little over, this appeared to be through how they chose to utilise their spending and available credit rather than because they were obviously in financial difficulty.

By this I mean that they were choosing to use some of the overdraft funds to put into savings and investments, rather than reducing what they were borrowing. This would have likely suggested to Santander (had it reviewed the account more closely) it was a conscious decision to remain so heavily overdrawn, rather than being forced into that situation through financial difficulty.

It wouldn't be for Santander to provide Mrs and Mr R with financial advice and had it reviewed their account activity in more detail at that time it would have indicated there was disposable income available to reduce the overdraft if they wished. Indeed, when Santander did do this type of review with Mrs and Mr R in December 2022 it concluded they had nearly £900 in monthly surplus funds they could use to reduce debts. Whether or not that figure was entirely accurate isn't particularly relevant but appears to support what I've broadly concluded from my review of the statements, which is that it appeared Mrs and Mr R had more income than regular committed expenditure.

Clearly Mrs and Mr R were struggling as they reached out to a debt charity for help. However, that doesn't mean that Santander ought to have readily seen this was the case until they reached out for assistance. I don't think in the specific circumstances of this case, Santander ought to have been on notice that Mrs and Mr R were likely in difficulty and therefore it needed to step in to provide assistance or take other proactive steps. For these reasons, I'm not persuaded Santander has acted unfairly or unreasonably towards Mrs and Mr R.

Santander accepted my provisional decision, but Mrs and Mr R didn't. In summary, they said:

- The investigator had upheld the complaint previously and another investigator has provisionally upheld their complaint about the Santander credit card, my findings are therefore not consistent with the two investigators.
- Santander had clear indicators across several financial products that there were struggling financially and should therefore have proactively intervened. The overdraft should not be considered in isolation when deciding the outcome of this complaint.
- Just because someone has a high income it doesn't automatically mean they have a high disposable income.
- Only a 2021 credit report was considered, not one from 2018, which showed defaults.
- In 2021, there were returned direct debits indicating financial difficulty. Santander also approved a mortgage for them in 2021 and as part of that application told them they were at the maximum of what they could afford, so they knew their financial position was stretched at that time.

- There are other examples of final decisions where the Financial Ombudsman Service has ruled against Santander in relation to overdraft borrowing and the circumstances of those cases mirror this one.

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 considered the additional comments and evidence Mrs and Mr R have provided, including the copy of the 2018 credit report, I'm still of the view the complaint shouldn't be upheld, for broadly the same reasons I set out in my provisional decision. I'll explain why, with reference to the additional comments and evidence provided.

The credit report Mrs and Mr R have now provided from 2018 pre-dates the first overdraft by a few months. However, I agree it provides a helpful overview of what Santander might have seen before lending to them.

Mrs and Mr R have referred to defaults on their 2018 credit file and that these ought to have prompted Santander not to approve an overdraft for them. However, I disagree. The credit file shows the current credit commitments to have been: two credit cards, three loans and a mortgage (as well as utilities and communications accounts), all of which were being serviced satisfactorily. The credit cards were only being utilised to around 50% of their available limit. The two defaults Mrs and Mr R reference related to two current accounts which defaulted in 2012 and 2016. However, both default balances had since been cleared. The 2012 default had been satisfied in 2013, and the 2016 default satisfied in the same year.

It had been around two years since Mrs and Mr R had paid off those defaults when the initial overdraft limit was granted. Given the limited amount of unsecured credit the credit file showed at the time (relative to their combined monthly income), I can't agree that two historic defaults ought to have stopped Santander from lending to them. This is particularly given that I've seen Mrs and Mr R settled a Santander loan early a few months prior to the overdraft being granted. This would have given Santander some comfort that they were likely to be substantially more financially secure than when the default occurred two years earlier.

I want to reassure Mrs and Mr R that I haven't reviewed the overdraft in isolation. I have reviewed the credit card history too when deciding what is fair and reasonable in the circumstances of this complaint. I agree that how that was being managed is relevant to the overall picture of what Santander ought to have understood about Mrs and Mr R's financial position. However, this decision won't comment on the fairness of Santander's actions in relation to the credit card as that is being dealt with under a separate complaint (because the credit card is in Mrs R's sole name).

While an investigator has reached a provisional outcome on Mrs R's credit card complaint, I don't think that has any material bearing on the outcome I've reached here. Each case is decided on its own individual merits, and I'm required to consider the facts of the case and reach my own independent conclusion.

In any event, the investigator's provisional conclusions on the other case are not final and the respondent firm has the right to request the outcome on that case be considered by an ombudsman. It's possible the outcome of Mrs R's other complaint might yet change. What's important to note is that should that case be referred to an ombudsman they will also need to reach their own conclusion on the matter, and it's possible that they may also disagree with the investigator in the same way that I have on this case.

Mrs and Mr R have also referenced other previously issued decisions against Santander for other consumers as reasons why this complaint should be upheld. As I've said, each case is decided on its own merits as no two cases are ever exactly alike. While Mrs and Mr R might see some similarity in the other decisions they referred to, the facts and circumstances will not be exactly the same.

While I accepted in my provisional decision that Mrs and Mr R did begin to show signs of some payment difficulty in 2021. This appeared to be short lived. As I stated, they received a cash injection of over £40,000 shortly after this (which appear not to have been loans and Mrs and Mr R have not sought to argue otherwise) as well as entering into a consolidation loan and an increase in their monthly income. All of this placed them into what appeared to be a significantly healthier financial position.

Mrs and Mr R say that at the time of them remortgaging with Santander in early 2021, they were stretched financially. I don't doubt that, but that isn't the same as being in financial difficulty to the point that they could not afford their essential outgoings. The Santander remortgage was for monthly repayments of £1,029 per month (according to Mrs R's credit file). Her previous mortgage with another lender was almost £700 more per month. So, clearly at this time her outgoings in entering into this new mortgage would have significantly reduced. This coupled with the other points I've made above about paying off debts and consolidating others to lower amounts only serves to further highlight why I don't think Santander needed to be so concerned with Mrs and Mr R's financial position as to step in and proactively do something.

I agree with Mrs and Mr R that a high income doesn't automatically mean there is a high disposable income each month. However, from everything I've seen, I don't think Santander ought to have been on notice, prior to Mrs and Mr R reaching out for help, that their income wasn't sufficient to meet their essential expenditure.

Each month Mrs and Mr R came out of their overdraft by a considerable sum. Had they not entered into such a healthy credit balance each month, arguably Santander ought to have noticed a problem. But that isn't what happened here. It would be unreasonable for me to say Santander ought to have noticed an issue in the specific circumstances of this case because of the way the account was being managed. Yes, the overdraft was being used to the maximum, but it was also being cleared in full each month with a healthy credit balance on top. Further, at the point at which direct debits began to bounce, it was temporary, and the financial position changed dramatically (seemingly for the better) very soon afterwards.

As I said in my provisional decision, it appears there was sufficient disposable income to be able to repay the overdraft borrowing in a reasonable period of time. Santander also came to this conclusion when it did review Mrs and Mr R's financial position later in 2022. So, I can't see that Mrs and Mr R's position would be materially different had Santander chosen to review their financial position earlier.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr R to accept or reject my decision before 14 April 2025.

Tero Hiltunen
Ombudsman