

The complaint

Ms B complains that Santander UK Plc didn't sufficiently check she could afford to repay an overdraft facility and the subsequent overdraft limit increases.

In bringing her complaint Ms B is represented by a third party. For ease of reading I will only refer to Ms B in my decision.

What happened

From 2015, Ms B had a banking account with Santander. Upon opening Ms B was provided with an unarranged overdraft facility of £500. This was reduced to £250 in September 2018. Ms B didn't utilise any of the overdraft facility until May 2019 after Santander applied an arranged overdraft limit of £100. Santander increased her arranged overdraft limit to £300, and in July 2019 further to £900, with Ms B increasing her overdraft usage. In August 2019, Santander kept Ms B's arranged overdraft limit to £900 but reduced her unarranged overdraft limit to £100. In September 2019 Santander increased Ms B's arranged overdraft limit to £1,000, which Ms B fully utilised, while they reduced her unarranged overdraft limit to £50. In October 2019 Santander reduced Ms B's arranged overdraft to £900. And from November 2019 they reduced Ms B's unarranged overdraft limit to zero.

In May 2020 Ms B spoke to Santander about her financial difficulties and a 15-month payment arrangement was put in place to settle Ms B's overdraft. During the arrangement Santander removed all interest and charges, and the overdraft was fully settled by September 2021.

Ms B complained to Santander as she said by providing her with the overdraft facility Santander had added to her financial burden. And if they'd properly checked they would have seen she wouldn't be able to sustain the repayments.

Santander said their checks had been reasonable and proportionate. And based on these checks their lending decisions had been fair.

Ms B wasn't happy with Santander's response and referred her complaint to us.

Our investigator said that Santander's checks had been reasonable and proportionate. But the lending decision to increase Ms B's overdraft limit to £1,000 wasn't fair based on these checks. To put things right she asked Santander to:

- Re-work Ms B's current overdraft balance so that any additional interest, fees and charges applied as a result of the overdraft limit increase of £1,000 on 2 September 2019 until the limit was decreased back to £900 on 24 October 2019 are removed. And
- If an outstanding balance remains on the overdraft once these adjustments have been made Santander should contact Ms B to arrange a suitable repayment plan for this. If they consider it appropriate to record negative information on Ms B's credit file, it should backdate this to 2 September 2019. 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 Ms B along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Santander should remove any adverse information from Ms B's credit file.

Santander didn't agree and asked for an ombudsman 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.

Having done so I partially uphold this complaint. I'll explain why.

An overdraft occurs when a consumer's bank balance falls below zero. An arranged overdraft can be agreed with their bank and interest is normally charged at an agreed rate. An overdraft that hasn't been agreed with the bank is often referred to as an unarranged overdraft and charges and a higher interest rate will usually apply.

Overdrafts are generally used to cover short term emergency borrowing needs, as they're considered to be an expensive form of credit, particularly where the account remains overdrawn for significant periods of time. And they aren't intended for, or an appropriate means of, long term borrowing.

As an overdraft is a form of lending, lenders are required to ensure they don't lend irresponsibly.

I've considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say that before Santander offered running account credit they needed to complete reasonable and proportionate checks to be satisfied Ms B would be able to repay the debt in a sustainable way.

There isn't a set list of checks a lender should do. But in deciding what was proportionate Santander needed to consider things such as (but not limited to): the amount of credit, the size of any regular payments (taking into consideration the rules and guidance in CONC relating to assumptions concerning revolving credit), the cost of credit and the consumer's circumstances.

Also we consider that any lending should be borrower focused meaning Santander need to think about whether repaying the lending sustainably would cause difficulties or adverse consequences for Ms B. In other words, it wasn't enough for Santander to think only about the likelihood that they would get their money back without considering the impact of repayment on Ms B herself. Especially as an overdraft can be repayable on demand.

CONC says a lender should take reasonable steps to estimate a consumer's income and non-discretionary expenditure. As Ms B banked with Santander they had access to her banking account which should be a good indicator of her income and expenditure. Santander has also shown that they conduct monthly reviews checking Ms B's credit history with a credit reference agency (CRA) as well as how she was managing her account. So, I'm satisfied Santander's checks were reasonable and proportionate.

I've next considered whether based on these checks each of their lending decisions were fair.

In May 2019 Santander provided an overdraft facility of £100, a modest sum. Prior to this point Ms B hadn't used any of her unarranged overdraft as her account hadn't fallen below zero. And she was managing her existing credit commitments well. So, I don't think it was unfair of Santander to apply a £100 arranged overdraft. By the end of the month Ms B was around £91 overdrawn.

In June 2019, Santander increased Ms B's overdraft limit to £300, a relatively modest amount. I can see from Ms B's account that she wasn't using any of her arranged overdraft until late in May 2019. And that Ms B's salaried income was paid into the account at the end of each month. Also Ms B was managing to meet her non-discretionary commitments. Ms B's CRA check also showed she was continuing to manage her existing credit without any signs of missed payments. So, I'm satisfied the lending decision made by Santander was fair.

It wasn't until the second half of the month of June 2019 that Ms B's account fell below zero. And towards the end of the month before she was using her higher overdraft limit. At the beginning of July 2019, Santander increased Ms B's overdraft limit to £900. Based on how Ms B had been managing her account and the CRA check I'm satisfied that this was a fair lending decision.

But I can see that Ms B's circumstances changed as she'd no longer a salaried income being paid into her account. From July 2019 Ms B's income was from benefit payments. And the CRA check showed she'd started to miss payments for her existing credit commitments. Santander in August 2019 reduced Ms B's unarranged overdraft limit to £100. At the time of the arranged overdraft limit increase to £1,000 in September 2019 Ms B was consistently using her overdraft facility and was two months behind in her existing credit commitments.

So don't think Santander made a fair lending decision to increase Ms B's overdraft limit to £1,000 in September 2019 as I think their checks showed, her monthly income had reduced, she was reliant on her overdraft and was struggling to sustain her credit commitments. By increasing Ms B's arranged overdraft facility further Santander had added to her financial burden when Ms B was showing signs of financial vulnerability.

Ms B's inability to sustain her repayments for her overdraft is supported by her approaching Santander for help in May 2020. I'm satisfied Santander acted with forbearance and consideration during this difficult time for Ms B as they agreed a 15-month payment plan and removed all interest and charges from Ms B's account. Ms B remained consistently in her overdraft until it was fully settled in September 2021.

I've also considered whether Santander acted unfairly or unreasonably in some other way given what Ms B has complained about, including whether their relationship with her might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. But I'm satisfied the redress I've directed below results in fair compensation for Ms B in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

We'd generally look to put a consumer back into the position they would have been before any error. But Ms B has had use of the credit that was lent to her by Santander so I think she should pay that back. But I don't think it's fair for Santander to apply any interest and charges.

My final decision

I partially uphold this complaint. And ask Santander UK Plc to:

- Rework Ms B's account removing any interest and charges applied above an overdraft limit of £900 from 2 September 2019 when the £1,000 overdraft limit was applied until her overdraft facility was reduced to £900 in October 2019.
- Ms B has settled her overdraft, so any overpayment she's made as a result of the rework should be refunded to her plus *8% simple interest from the date of payment to the date of settlement.
- Any adverse information pertaining to the above that had been added to Ms B's credit file should be removed.

*His Majesty's Revenue & Customs requires Santander UK Plc to deduct tax from any award of interest. They must give Ms B a certificate showing how much tax has been taken off if she asks for one. If they intend to apply the refund to reduce an outstanding balance, they must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 2 September 2025.

Anne Scarr
Ombudsman