

The complaint

Mrs T complains that she was ill informed when sold a fixed-sum loan agreement by Santander Consumer (UK) Plc (Santander).

What happened

In November 2009, Mrs T acquired a car through a fixed-sum loan agreement with Santander. The cash price of the car was £10,500. Mrs T made an advance payment of £1,500, with the remaining amount of £9,000 provided as credit through the agreement.

The agreement required Mrs T to make 47 monthly repayments of £247.74, followed by one repayment of £397.74 on month 48.

In July 2024, Mrs T complained to Santander that they failed to check if she could afford the finance and as a result she was struggling financially.

Santander didn't think they'd done anything wrong saying they'd conducted all the necessary checks required and based on the information available to them at the time, they deemed the scheduled repayments were affordable.

Mrs T remained unhappy, so she asked the Financial Ombudsman Service to look into her complaint.

One of our Investigator's looked into things and said while she didn't agree Santander had completed proportionate checks, she thought that if they had done, they'd likely have found the repayments appeared affordable for Mrs T. As such, our Investigator didn't think Santander had acted unfairly by approving the finance for her.

Mrs T disagreed with both the income and expenditure figures our investigator had used to determine her affordability to repay the loan, providing evidence to show her expenditure was higher at the time the loan was taken out.

But after review, our Investigators opinion remained unchanged. She was satisfied Mrs T's expenditure at the time appeared to show she had sufficient disposable income for the agreement to have been considered affordable.

Mrs T remained unhappy. Because no agreement could be reached, this complaint has been passed to me 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, and I acknowledge it will come as a disappointment to Mrs T, I'm not upholding her complaint for broadly the same reasons as our Investigator. I'll explain why.

How we handle complaints about irresponsible and unaffordable lending is explained on our

website. It's this approach I've used when deciding Mrs T's complaint. Santander needed to ensure they didn't lend irresponsibly which in practice, means they needed to carry out proportionate checks to be able to understand whether any lending was affordable and sustainable for her before agreeing to provide the finance.

The rules that apply to credit agreements are set out in the FCA's consumer credit sourcebook (CONC). Section 5.2A of CONC is relevant here, as – among other things – it talks about the need for businesses like Santander to complete reasonable and proportionate creditworthiness assessments before agreeing to lend someone money.

I've considered these rules by asking the following questions:

- 1) Did Santander complete reasonable and proportionate checks to satisfy themselves Mrs T would be able to meet the repayments of the borrowing without experiencing significant adverse consequences?
 - If they did, was their decision to lend to Mrs T fair?
 - If they didn't, would reasonable and proportionate checks have shown that Mrs T could sustainably repay the borrowing?
- 2) Did Santander act unfairly or unreasonably in some other way?

Did Santander complete reasonable and proportionate affordability checks?

What's considered reasonable and proportionate in terms of the checks a business undertakes will vary dependant on the details of the borrowing and the consumer's specific circumstances at the time.

Here, the total amount repayable under the agreement was around £13,541, with Mrs T committing to make 47 monthly repayment of around £248, followed by a final repayment of around £398. This was, therefore, a relatively lengthy credit commitment for someone to enter into repaying not an insignificant amount back each month, so my starting point is that I'd expect to see Santander to have completed a thorough affordability check.

Santander completed a credit check with the Credit Reference Agencies and found out Mrs T had eight active credit accounts and a mortgage at the time of the application. The mortgage balance was £68,000 and all her other indebtedness to credit combined, totalled around £11,800.

While Santander did find out Mrs T had one outstanding County Court Judgement (CCJ), they saw this had taken place around 28 months prior to the application being applied for. As such, I'm satisfied it was reasonable for Santander to have considered this historic.

Aside from the historic CCJ, Santander saw Mrs T was managing her existing credit commitments well at the time, that she had zero arrears on any active credit accounts and was utilising only around 32% of her existing credit card limits.

But with the credit check put aside, I can't see Santander completed an affordability assessment based on Mrs T's actual expenditure, nor can I see they took any steps to verify her income.

While Santander say Mrs T met the threshold that set which meant they didn't have to go on to complete a full affordability assessment, I think Santander ought to have done more to have understood her expenditure as well as taking steps to verify her income.

It follows, for the reasons I've explained, I can't say Santander's checks were proportionate.

But as I've explained above, that doesn't necessarily mean I can uphold Mrs T's complaint – I now need to consider whether Santander would've likely been able to fairly decide to lend to her if they had done proportionate checks.

If Santander had done proportionate checks, what would they have found?

I think had Santander independently verified Mrs T's income; I'm satisfied they'd have found her net income to be on average around £1,340 a month. I've calculated this by taking the average incoming payments from Mrs T's bank account statements for the three full months prior to her application.

I'm not saying Santander specifically needed to obtain bank statements as part of their credit worthiness checks. But in the absence of other information, I think bank statements provide me a good indication of Mrs T's expenditure at the time the lending decision was made.

I'm satisfied Mrs T's bank account statements show her average monthly expenditure towards essential spending was around £840. Approximately each month on average this consisted of £340 towards rent, £108 towards council tax, around £195 towards loans held externally, £120 towards utilities and around £77 towards mobile and televisions contracts.

This would have left Mrs T with around £500 per month from which to make the repayments due under the agreement of around £248. So, I'm satisfied Santander could have fairly decided the agreement was affordable for Mrs T.

I'm aware Mrs T reaches different figures when calculating specific elements of her essential expenditure. My own calculations, which I've taken from her bank account statement's, differ marginally to both Mrs T's understanding of her outgoings at the time and our Investigator's.

But it's important to remember that we are now looking at this data in hindsight and my role isn't to identify every specific transaction. It's sometimes difficult to differentiate between payments towards for example fuel or groceries when fuel is readily available from supermarkets, as it is also difficult to separate essential and non-essential expenditure simply from a transaction on an account.

So, focusing back on the lending decision in question, I'm satisfied Santander's lending decision was fair and I'm not upholding this complaint.

Did Santander act unfairly or unreasonably in some other way?

Mrs T says she continues to repay the loan, and I can see she appears to have been making reduced payments for some time. Those amounts appear to be varied so it would be reasonable to conclude Mrs T is paying back amounts suited to her affordability at specific points. As I've not found Santander to have acted unfairly by deciding to lend to Mrs T, I don't think they need to do more here.

But as it would be fair to say Santander are now aware the ongoing financial difficulties Mrs T faces, I'd remind them of their responsibility to treat her with continued forbearance and due consideration.

I've also considered whether Santander acted unfairly or unreasonably in some other way given what Mrs T has complained about, including whether its relationship with Mrs T might have been unfair under s.140A Consumer Credit Act 1974.

However, for the reasons I've already given, I don't think Santander lent irresponsibly to Mrs T or otherwise treated her unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 28 October 2025.

Sean Pyke-Milne
Ombudsman