

The complaint

Mr K says Santander Consumer (UK) Plc trading as ('Santander') didn't take reasonable steps to assist him when he couldn't afford the repayments to his car finance.

What happened

This complaint is about a conditional sale agreement that Mr K took out to purchase a car in October 2019. The vehicle had a retail price of £26,068. Mr K paid a £1,000 deposit meaning £25,068 was financed. This agreement was to be repaid through 60 monthly instalments of £503.83. If Mr K made repayments in line with the credit agreement, he would need to repay a total of £31,229.80.

Mr K was unable to work due to the Covid 19 pandemic, and he was unable to repay the agreement. The agreement was modified at this time, and the new agreement was started in March 2021. The details about the car were the same. The new amount of credit was £24,058.72. Mr K was due to pay 12 instalments of £251.92 followed by 44 payments of £592.11.

When the payments increased Mr K struggled to repay them, the credit was defaulted and the car sold. Mr K has complained to Santander about this saying that whilst he was struggling to repay the lending he felt that Santander didn't assist him enough. He needed the transport for his business and daily life; Santander should have recognised this and helped more.

Santander didn't think Mr K's complaint should be considered as the finance and vehicle were for Mr K's business, and the agreement was greater than £25,000. Which would make it an exempt agreement and not within the jurisdiction of the Financial Ombudsman Service. Mr K didn't agree with this and brought this complaint to the Financial Ombudsman Service.

An Ombudsman has considered the jurisdiction issue and said that the second modified contract could be considered. As this agreement was not exempt as the credit was under £25,000. I'm not going to revisit the Ombudsman's earlier decision, but I agree that Mr K's complaint about the modified second contract is within the jurisdiction of the Financial Ombudsman Service.

Our Investigator has gone on to consider the merits of Mr K's complaint and he didn't uphold it. He thought that Santander wasn't acting incorrectly when it defaulted the loan. And it also wasn't acting incorrectly when the agreement was terminated, and the car was collected and sold at auction. Mr K did receive a parking charge notice as the registered keeper had not been updated but he didn't pay this. And there were some mistakes in the information that Santander had provided to Mr K about terminating the agreement himself, but this also hadn't caused him a detriment. He didn't think Santander had made any significant errors.

Mr K didn't agree with the Investigator, but he didn't provide any further arguments or evidence. Because Mr K didn't agree, this matter has been passed to me to make a final decision.

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've seen and considered all the correspondence about this finance and, in particular, when Mr K began to have problems repaying it. I'm not going to reproduce them all here as they are well known to all the parties to the complaint. I'll concentrate on the key points I need to refer to, to say why I am making my decision. If I don't mention some issues it's not because I've not considered them, it's because I don't need to address them to make my decision.

An overview of what happened with the second finance contract, and the car, is below:

- In May 2022 Mr K was unable to make the repayments to the finance, he paid a reduced amount of £251.92, which was lower than the scheduled repayment and the account fell into arrears.
- This continued into June 2022, when Mr K was only able to pay £500, which still left the account in arrears.
- I can see there was contact between Mr K and Santander over June and July 2022, but it is now clear that Mr K was unable to repay the credit due to problems with his work. By the end of July 2022, the account was in arrears of £1,186.52.
- This continued going forward and Santander took steps to default the loan in September 2022. The default notice, issued on 6 September 2022, said that Mr K needed to pay the loan arrears of £1,513.63 before 26 September 2023. Mr K couldn't do this.
- After the default notice was issued, Mr K said that he could pay a reduced amount as their expenses could be reduced. But as the agreement had now defaulted Santander said he needed to pay the full amount of arrears to retain the car.
- At the end of September 2022, the finance was passed to Santander's legal department. Although I can again see discussions were had, a revised repayment plan wasn't agreed.
- The agreement was terminated on 9 November 2022, and the car was sold at auction.

I understand Mr K still has a balance to pay after the agreement has been cancelled of around £6,200. I can see that he has had ongoing problems making the repayments to the amount he still owes.

I think it's reasonable to say that, from May 2022 onwards, Mr K was unable to reliably make the contractual loan repayments. He was significantly in arrears by July 2022, and he was told that he must make the contractual repayments, at the agreed time, or the loan would default. As I've outlined above, he couldn't do this.

So, I don't think it's reasonable to say that Mr K had the ability to pay the car finance. By this I mean it's clear that he was unable to pay the contractual loan repayments on time and when they became due and make up the payments he had missed. By September 2022, he'd missed a significant number of contractual repayments, and he also hadn't been able to agree a plan to repay some of the arrears.

I don't think it was unfair of Santander to recognise this and take appropriate action. So, I don't think that it was acting unfairly when it defaulted the loan and then terminated the agreement and sold the car.

Mr K thinks that Santander should have exercised greater forbearance before ending the agreement and selling the car as he needed it for his business. I can see that he had, and seems to still be, having a difficult time. I hope things have improved for him.

But I can also see that Santander did try to help Mr K, and it must be borne in mind that the finance agreement had already been amended due to his circumstances. I don't think it's reasonable to say that Santander should have done more here, it acted reasonably when it became aware Mr K was having financial problems.

I've considered the information Mr K was provided about all of this. There were numerous telephone conversations between Mr K and Santander about the arrears, and he was told about the risk of a default. And he received a default notice before the default was applied which fully explained what would happen going forward. I think Santander provided reasonable information to Mr K.

Mr K received a parking charge notice dated after he had sold the car. And it seems that Santander had not updated the registered keeper of the car at the DVLA. Santander provided information to ensure that Mr K did not pay this, and I understand he didn't pay it and so has not suffered a detriment.

And Mr K was provided with some incorrect information about the sums he would need to have paid to voluntarily terminate the agreement. Again, this didn't affect the situation Mr K found himself in, which was that the agreement was terminated due to non-payment of it. So, whilst this mistake was unfortunate I don't think he should receive compensation for this.

I understand that Mr K still owes Santander some amounts from the agreement. Whilst I've not been provided with all the correspondence about this, I understand Mr K is currently unable to work. I would remind Santander of its responsibility to treat Mr K positively and with forbearance going forward.

I have considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

I haven't seen anything to make me think Santander acted unfairly or unreasonably in some other way.

My final decision

For the reasons set out above, I don't uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 18 December 2025.

Andy Burlinson
Ombudsman