

The complaint

Miss B complains about how Santander Consumer (UK) Plc ('Santander') has administered a car finance agreement she has with it. She has had problems repaying the account, but she thinks that Santander should have defaulted it at an earlier time, or not at all. She also has a default registered by the third party the debt was sold to. She thinks this isn't fair.

What happened

Miss B's complaint is about a conditional sale agreement that was started in June 2020. The vehicle had a retail price of £17,995 and Miss B financed all of this. This agreement was to be repaid through 60 monthly instalments of £377.73. If Miss B made repayments in line with the credit agreement she would need to repay a total of £22,663.80.

Miss B has complained to Santander about the defaults that have been recorded against the agreement. Santander considered this complaint and it didn't uphold it. It said the agreement was defaulted when it fell into arrears correctly and it was only reporting one default to the credit reference agencies ('CRA'). It didn't think it was acting incorrectly here.

Miss B didn't agree with this and brought her complaint to the Financial Ombudsman Service.

Our Investigator upheld Miss B's complaint. She said that Santander had defaulted the account when Miss B had very recently agreed to a repayment plan, and she should have been given the opportunity to repay the outstanding balance. She didn't think it was fair that Santander defaulted the account when this was the case.

Santander didn't agree with the Investigator. It said that the default was valid due to the arrears and that Miss B hadn't adhered to the terms of the revised agreement, and so the relationship had broken down. It was correct to report this to the CRA. It wasn't responsible for the actions of the third party that the debt was sold to.

There was some further correspondence, but no new issues were raised. Because Santander 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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider was good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any 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 to reach what I think is the right outcome.

Miss B says that in June 2022 the engine failed on the car she had acquired using the conditional sale agreement. The cost to repair this was £4,000 and Miss B says she found it difficult to pay this amount alongside the finance. The account fell into arrears in October 2022. Santander issued Miss B with a default notice on 19 December 2022.

Miss B and Santander were in contact, and Miss B made a payment to the account in January 2023. A repayment plan was agreed to cover the period of March to September 2023 in which Miss B would make up the arrears.

I understand the account wasn't defaulted at this time, and Santander didn't inform the credit reference agencies ('CRA') that the account had defaulted.

I agree that Santander wasn't right to default the account in December 2022 as it and Miss B were in contact, and an arrangement to repay the arrears was arranged at this time. This is in line with Information Commissioners Office ('ICO') guidance on defaulting an account in which it says a default should not be filed if *'an agreement is reached for an arrangement and you keep to the terms of that arrangement'*. I've not seen that Miss B wasn't keeping to the terms of the arrangement at this time.

However, Miss B then decided that she wanted to voluntarily terminate ('VT') the agreement. This process was started in May 2023. The termination letter was sent on the 24 August 2023. This said that if the full outstanding balance of £3,934 wasn't paid, or a payment arrangement wasn't agreed within seven days, then it would start a debt recovery process.

After the VT, Santander and Miss B were in contact about the outstanding balance. Miss B had provided an income and expenditure form on 16 August 2023. On 2 September 2023, when she didn't hear from Santander about the repayments, she asked Santander if it had received this. Santander then informed Miss B on 5 September 2023 that it would accept her proposed payment of £120 a month towards the balance on the account. The payment was set up to commence on 1 October 2023.

I can see that Miss B made three payments as part of this arrangement. I understand the debt was sold to a third party around this time. Miss B has continued to make repayments to the third party.

Miss B has provided excerpts from her credit report that show Santander then marked the account as defaulted on 6 September 2023 and started to report this to the CRA. I've not seen any surrounding correspondence about this from 2023 such as a notice of default. And, as Miss B has also noted, the third party is also reporting the debt as in default but from 22 December 2022.

I don't think Santander was acting fairly when it did all of this and it's not clear to me why it defaulted the account at this point. The situation with the account had recently changed when it was subject to a VT, and Miss B now only owed the balance to take her up to the minimum VT amount. At this point Santander needed to agree with Miss B a repayment plan. And this seems to have taken place. And it would have been agreed relatively quickly, other than Santander not responding in a timely manner to Miss B's income and expenditure information.

And as I said, I can't see that Santander provided correspondence about this default to Miss B. Santander was required to give Miss B 28 days notice of a default and engage with her response. Santander did issue default correspondence in 2022, but I can't see that it did this in 2023. It's not clear if it is relying on that earlier correspondence but I don't think it would be correct of it to do so if it is. It should have properly communicated with Miss B

about this in late 2023, given the different amount she now owed and the change in the original contract. I don't think Santander has done this. The contact log, and correspondence provided, doesn't show that it did this in respect of the default in 2023.

And it's important to note that a default is usually applied to an account when a consumer is unable to reliably repay credit and the relationship has broken down. There isn't any disagreement that Miss B had problems repaying the finance. But I can't see that the relationship had broken down, in fact the opposite seems to be the case. Miss B had taken steps to reduce the amount she owed by the VT. And she had agreed a repayment plan for the balance and was paying this when Santander began to report a default. I don't see how this is fair in this case.

Overall, I think Santander has acted contrary to the ICO guidelines (that I've reproduced above) when defaulting the account. And it wasn't treating her fairly when it started reporting the account as defaulted.

Miss B has outlined the distress and problems all this has caused her, and she's noted that the defaults are making it problematic to get other credit. I agree the impact of the defaults is uncertain, particularly as she was having repayment problems anyway. But I think the defaults have caused her some distress and inconvenience and I agree that £350 our Investigator thought was reasonable compensation should be paid to her.

Santander sold the debt to a third party, and I note it has said that it isn't responsible for the actions of this third party. Whilst I don't disagree with this, the third party is reporting that the account defaulted from the time the credit was with Santander, and it must be using information Santander provided to do this. So, I think it is fair to ask Santander to put this right. Santander does bear some responsibility for the aspects of the situation that have led to this.

I am making a direction below that Santander remove the defaults from the account. But one of the defaults has been reported by a third party and Santander will need the co-operation of this third party to remove it. This is usually straightforward, but as this decision isn't against the third party, if the third party doesn't assist then Miss B will need to complain to it.

And while I have said that Santander should remove the defaults, it should also accurately record the payment history of the account which will include periods of late and missed payments and the arrangements to pay.

Putting things right

Santander needs take steps so that that the account isn't showing as defaulted on Miss B's credit file. To do this, if applicable, it needs to:

- Recover the debt back from the third party to whom it was sold to, or liaise with the debt owner to ensure that the credit file can be amended.
- Remove both the defaults from the account itself or arrange with the third party to arrange to have the defaults removed.
- Pay Miss B £350 compensation.

My final decision

For the reasons I've explained, I uphold Miss B's complaint.

Santander Consumer (UK) Plc should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 25 February 2026.

Andy Burlinson
Ombudsman