

complaint

Mr S complains that Santander UK Plc didn't treat him fairly when he was in financial difficulty and suffering with health issues. He says the bank hasn't met his request for reasonable adjustments due to his disability.

background

The circumstances leading to this complaint, and my initial conclusions, are set out in my provisional decision from August 2017, a copy of which is attached and forms part of this final decision. In that decision, I explained why I was minded to uphold Mr S's complaint and I invited both parties to let me have any further representations before I reached my final decision.

I have now received responses from both parties.

Mr S says that he provisionally accepts the decision but he'd like me to note that the bank is still sending him correspondence in the post and this continues to cause him difficulties. And he also wants Santander to remove any negative notes and defaults from his credit file with the credit agencies.

Santander says it doesn't agree with my provisional decision. I will not repeat all of its submissions here but, in summary, it says:

- Mr S used an online application form to apply for the credit and because he supplied false information about his earnings he should take some responsibility for the financial difficulties he now faces.
- Santander used an automated underwriting system which simply assessed Mr S's ability to repay based on the information he'd provided.
- If he'd provided accurate information it's likely his application for credit would've been declined.

my findings

I thank both Mr S and Santander for their comments and I've considered them alongside all the evidence and arguments submitted by both parties, in order to decide what's fair and reasonable.

It may be helpful at this stage for me to explain that, although a number of points have been raised in response to my provisional decision, I will *only* be addressing those issues I consider to be materially relevant to the complaint in hand. Both parties should note, however, that although I may not address each individual point raised, I have given careful consideration to *all* of the submissions before arriving at my decision.

Having considered all of the evidence, I have reached the same conclusions as set out in my provisional decision and for the same reasons. However, I would like to make the following comments:

- The way Santander communicates with its customers is a commercial decision for the bank alone – it's not something that our service would generally involve itself. Santander says that most of its correspondence does go through the secure

messaging system – but that there are occasions and types of communication that it needs to send by post.

I can tell Mr S that there are other banks that do provide an internet only service and if this is something that he deems critical for his banking arrangements he should consider looking at what is available from other banks.

- Santander may feel that Mr S didn't provide it with full and accurate information when he made his application. But it designed and owns the underwriting process – and in doing so, it is responsible for who it lends to and on what terms. I understand the bank's frustration with the situation, but I remain satisfied that its lending was irresponsible. It simply shouldn't have lent Mr S a loan of £7,500 and increased his credit limit by £1,300.
- I've noted Mr S's comments about his credit file and the information recorded by the credit reference agencies. But I'm not going to direct Santander to do anything in this regard.

Santander is obliged to report accurate information to the credit reference agencies and the debt and the overdraft represent a picture of the state of Mr S's credit worthiness at the time it updates them – it's a true reflection on how Mr S is conducting his accounts. And the information that a bank provides to the credit agencies remains on file for six years.

I've noted Mr S's concerns about his credit rating. He might be interested to know that he can place a '*Notice of Correction*' on his credit records. The purpose of such a notice is to allow someone the opportunity to add any explanatory circumstances that they would like prospective lenders to take into consideration when making lending decisions. And if he wishes to do this, he should contact the credit reference agencies directly.

In summary, my decision is to uphold Mr S's complaint against Santander UK Plc and direct Santander UK Plc to:

- ensure interest isn't charged on the £7,500 loan or on the additional £1,300 of overdraft; and
- agree an affordable and fair repayment plan with Mr S until the loan is repaid.

my final decision

My final decision is that I uphold this complaint and direct Santander UK Plc to pay compensation as I've detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 November 2017.

Andrew Macnamara
ombudsman

Copy of Provisional Decision

complaint

Mr S complains that Santander UK Plc didn't treat him fairly when he was in financial difficulty and suffering with health issues. He says the bank hasn't met his request for reasonable adjustments due to his disability.

background

Mr S has a number of accounts with Santander. He says the bank isn't treating him fairly. He says:

- he's had a number of problems with the bank and made a number of complaints which haven't been resolved. And because of this, the bank said it was going to close his accounts;
- he's asked for all bank communication to come through the secure online messaging service because he's not in a position to accept post at home – but Santander keeps

sending sensitive account information to his home address where it can be seen by members of his family;

- Santander won't engage with him about the arrears on some of his accounts; and
- it won't agree a more reasonable payment plan for him to repay his loan.

Santander rejected this complaint, but it did say it had taken steps to address some of Mr S's concerns. It says it will no longer be closing Mr S's accounts and it has provided the name of an individual in its *Collections and Recoveries Department* who will be a dedicated contact point for Mr S in future. But it says its office hours mean that it can't speak with Mr S after 6pm.

The bank also says that although it sends most correspondence through the secure messaging system, there are certain types of correspondence that it sends in the post to Mr S's home address and it has no plans to change this. It says it isn't an internet bank and its systems and processes rely on being able to send some customer correspondence by post.

Santander also says Mr S's current account debt exceeds its authorised overdraft limit and his credit card and personal loan are both in arrears. And the payments Mr S makes aren't sufficient to maintain the overdraft facilities so these accounts could be defaulted. It says that it's looked at the possibility of refinancing Mr S's debts but he doesn't meet its lending criteria because he isn't making his contractual monthly payment and it's seen no evidence indicating what level of payments he could afford to make.

Our adjudicator looked at this complaint and said she thought it should be partially upheld. Because the bank changed its mind about closing Mr S's accounts she didn't look at this any further. And she explained to Mr S that the way in which Santander communicated with its customers was a commercial decision and wasn't something that this service would usually get involved with.

But she did say she thought Santander needed to do more to make Mr S's loan repayments more affordable. And she said she didn't think the bank had been responsible when it lent this money to Mr S. She explained that the large amount of information Santander held about Mr S's income and spending habits should've indicated that he was already in financial difficulty when it approved his loan application.

Our adjudicator looked at Mr S's current account statements for 2016 and said she thought they showed his monthly income wasn't enough to cover the level of his expenditure. And Santander should've realised this by the fact he had a number of payments to and from *short-term lenders*. She said it was irresponsible of Santander to lend Mr S £7,500 in April 2016 and at the time increase his overdraft limit on his other account by £1,300. And because of this it would be unfair of it to default him on this borrowing.

She said Santander had added to Mr S's financial difficulties by making increased lending available to him which he can't afford to repay. She acknowledged that Mr S had had the benefit of the additional funds but she said the bank should ensure that interest isn't charged on this £8,800 of irresponsible lending. And the bank and Mr S should agree an amount that he can afford to repay each month until the debt is cleared. But that Mr S should note that if he didn't keep to his agreed repayments then it wouldn't be wrong for the bank to apply a default to his account.

Santander disagreed and asked for an Ombudsman to look at the complaint. It said there was nothing to indicate that Mr S was in '*financial stress*' when it agreed to the loan so it didn't think its lending had been irresponsible. And it didn't think it would be in Mr S's best interests to restructure the loan as this might falsely improve his credit file and lead to further borrowing being approved.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I hope that Mr S won't take it as a courtesy that I've condensed his complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint. Our rules allow me to do that.

Having considered the evidence, I'm afraid I have to tell Santander that I think the adjudicator has reached entirely the right outcome here. To be honest, there is very little I can add to what she's already said and I think the adjudicator has set out the position very clearly and in great detail.

The starting point here is that lenders have a duty to treat all customers, but particularly those facing financial hardship, fairly. Mr S has been in difficulty for some time and I think that it's well documented in the banking records that Santander has.

So I think that the bank should've asked for more information to gain a fuller understanding of Mr S's financial circumstances before it offered the loan and increased the account overdraft. While there are different ways of doing this, one way is to look at his bank statements.

And had Santander made further enquiries, it would (or should) have become aware of Mr S's cause of vulnerability, and his related financial difficulties and this should've prevented the loan application from being approved, limiting his borrowing. Because it didn't do this, I think Mr S now finds himself in a position of increased financial hardship.

Santander says that the expected monthly loan repayments are £288 but Mr S says he cannot afford payments at this level – and I have to say based on the financial information I've seen about Mr S's income and expenditure I don't think the expected monthly payments are realistic. Mr S did say that he could afford to pay something each month and I think it would be fair and reasonable for Santander and Mr S to agree to extend the term of the loan. This way Mr S can make monthly loan repayments at a level he's previously indicated would be affordable.

For these reasons I'm proposing to uphold this complaint.

my provisional decision

Subject to any more comments and evidence that I receive by 11 September 2017 my provisional decision is that I'm thinking of upholding this complaint and ordering Santander UK Plc to:

- ensure interest isn't charged on the £7,500 loan or on the additional £1,300 of overdraft; and
- agree an affordable and fair repayment plan with Mr S until the loan is repaid.

Andrew Macnamara
ombudsman