

complaint

Mr T complains that Santander UK Plc wrongly recorded a default on his credit card account, which has adversely affected his credit record. He wants Santander to put matters right and pay him compensation for the inconvenience he has suffered.

background

The details of this case are well-known to Mr T so I do not repeat them in detail here. Dates are an important factor in the complaint so I refer to them where appropriate. In summary:

- Mr T spent several thousands of pounds on his Santander credit card;
- A change of circumstances meant Mr T was not able to repay the amount he had spent;
- Mr T agreed a payment holiday with Santander;
- When later payments were not made, Santander sent Mr T notice of its intention to default his account;
- Santander issued a default notice – but it appears before the date it should have done;
- Mr T paid the arrears but was not willing to make any further payments until Santander corrected the position about the default (which had been registered with at least one of the three recognised credit reference agencies);
- Mr T was unhappy Santander had referred the outstanding amount to a debt collection agency; and
- Mr T is very unhappy at how Santander has dealt with his complaint and not acknowledged it has not acted in accordance with the required rules and regulations covering credit arrangements.

Santander told Mr T that it had acted correctly. It said it had told him that not making payments during the payment holiday might affect his credit record and that it had told him a default might be registered. Mr T was not happy with Santander's response so referred the matter to this service.

Our adjudicator was not satisfied Santander had acted correctly in terms of issuing the default notice. It had written to Mr T on 18 June 2013 telling him that if the amount owed was not paid in 28 days it would default his account. But it registered the default on 3 July – the day after Mr T contacted the bank to discuss matters, where it was agreed there would be a 40-day 'breathing space' before any action was taken (Mr T cleared the arrears on 31 July).

He also thought Santander had not acted correctly in terms of passing Mr T's debt to a debt collection agency (in October 2013). This action had caused Mr T further inconvenience in trying to establish what the correct position was.

The adjudicator was persuaded that Mr T's circumstances had changed again when he contacted Santander in July 2013 and he was likely to make arrangements to repay the debt over the coming weeks. So he recommended Mr T's complaint should be upheld and Santander should remove the default marker, pay £150 compensation and work with Mr T to agree a manageable repayment plan.

There was further correspondence between the adjudicator and both Mr T and the bank. Santander provided copies of 'standard' letters and the adjudicator was not persuaded the bank had acted correctly in all aspects of Mr T's concerns. Mr T was also unhappy at Santander's continued approach and sent in further representations.

The end result was that Santander asked the credit reference agency (or agencies) to remove the default from Mr T's credit records. It also agreed to the adjudicator's recommendation and it increased the amount of compensation to £200. But it considered the other information recorded (for example non-payment) was a correct reflection of how Mr T had operated his account.

Mr T rejects this so the matter has been referred to an ombudsman for a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It is clear to me how strongly Mr T feels about this matter. He has brought it to the attention of his MP and says his circumstances in 2013 were not helped by Santander's actions. And I can see why Mr T would feel like this. It is clear to me that Santander did not handle this situation well at all.

But it has now asked for the default marker to be removed from Mr T's credit record(s). So this puts him back in the position he considered he should be in. I realise that Mr T believes Santander did not act in accordance with the various rules and regulations that cover the operation of credit. And there may be something in that – but this service's role is to resolve disputes (rather than regulate financial businesses) so I am satisfied I do not need to consider in detail many of Mr T's (understandable) further representations in this regard.

I agree with the adjudicator that Santander should pay Mr T compensation for the distress and inconvenience its actions have caused him. It does seem to have had a very uncoordinated approach to dealing with Mr T's problems – issuing the default letter before the 'due' date and just after a 'breathing space' had been agreed are examples. When I balance the two sides of this dispute, I consider £200 is an appropriate award.

That balance must take account of Mr T's actions. For reasons beyond his control, he was not able to make the required payments on his credit card account – as evidenced by Santander's agreement to a payment holiday. But the fact remains that he was not able to make the minimum contractually required payment(s). So it would be wrong for Mr T's credit records not to reflect this in some way.

It has been suggested Mr T contact the credit reference agency (or agencies) and ask for a note about his situation to be recorded on their records. I think he should do this (if he has not done so already). That will ensure anybody carrying out a credit check will understand his circumstances at the time.

I think most importantly is for Santander to work with Mr T to agree a repayment plan for the amount he owes. That also requires Mr T to work positively with the bank and I am confident he will do so. His credit record is clearly important to him so I am sure he will want to agree the fastest possible resolution to enable the debt to be repaid.

I am aware Mr T believes any such arrangement should be interest free. That would be a matter for agreement with Santander but Mr T will be aware that interest is normally payable on balances owed on credit card accounts – so Santander may decide such an arrangement is not appropriate. And Mr T should be aware that failure to keep to any agreed repayment plan may also affect his (future) credit record.

In summary, I consider Santander did not act at all well in this case. But Mr T has to accept that the bank is right to record what actually happened (or indeed what happens in the future) in terms of what – if any – payments are made. So I do not believe I can fairly direct Santander to remove all adverse information about how Mr T has operated his account from his credit record.

Given what Mr T has said about his financial and other difficulties, it is important that I remind Santander that it should (continue to) respond positively and sympathetically to his situation.

I know that Mr T may be disappointed with my final decision. While it brings to an end what this service can do to consider the issues he has raised, it may be that he will have success in highlighting his wider concerns through the other avenues he has referred them to.

my final decision

For the reasons I have given, my final decision is that I order Santander UK Plc to pay Mr T £200 compensation for the distress and inconvenience he has suffered. For the avoidance of doubt, Santander should also work with the credit reference agency (or agencies) to ensure the information it registered about the default on Mr T's credit card account is removed as soon as practicable.

Andrew Davies
ombudsman