

## **complaint**

Miss D complains that Santander UK Plc lent her money she couldn't pay back. Miss D has been supported in her complaint by her father, Mr D.

## **background**

Mr D said that Santander had allowed Miss D to run up credit card debt of £6,000. He said that Santander had kept increasing Miss D's credit limit, although she hadn't made any repayments. Mr D said that this was irresponsible lending by Santander, and happened at a time when Miss D was under considerable stress, and having counselling for anxiety.

Mr D said that he thought that Santander shouldn't hold Miss D responsible for this debt, and should remove it from her credit report.

Santander said that Miss D had two credit card accounts with it. One was opened in 2011, and was closed in late 2012, after Miss D had missed a number of payments. Miss D told Santander in late 2012 that she had no income and couldn't pay this debt. Miss D owed over £6,000 on that card.

The second card account seems also to have been opened in 2011. Miss D owed around £4,000 on that card. That card was also closed in late 2012, after Miss D had missed a number of payments.

Santander said that because the card accounts were both opened a while ago, it didn't have any information about how it had assessed Miss D's eligibility for the cards. So it couldn't tell if this was responsible lending or not. But it said it would clear the fees and interest that Miss D was charged on both accounts. So she would only pay back her actual spending.

Santander wouldn't remove the defaults on Miss D's credit file. It thought they were correct.

Our investigator thought Santander had made a fair offer in this case. Its offer was in line with what our investigator would've suggested if she'd considered that this was irresponsible lending. Our investigator said that Miss D had used the cards, so she wouldn't have been likely to recommend that the debts were written off.

Our investigator said that she wouldn't have expected Santander to chase these debts because they had both been with collections agencies for most of the time since early 2013. Our investigator said Santander wouldn't usually chase a debt while it was being managed by a collections agency. But Santander had now offered to take both debts back and manage them itself, and our investigator thought that this was reasonable.

Mr D sent us a detailed response, to say that Santander hadn't shown any reasonable basis for the lending it had made to Miss D. Mr D said that he had been complaining about this lending for some time, with no results. He took issue with what Santander said had happened to the debts since 2013. Mr D said that Santander had breached a number of regulatory principles. And he set out for us more information on Miss D's circumstances at the time. He also questioned whether the second credit card debt ever existed. Mr D said he still thought these debts should be written off.

Our investigator replied that she wouldn't suggest the debts be written off, because she was satisfied that Miss D had used the money she was lent. And our investigator said Santander

had shown us evidence of the second credit card, and that it had discussed both cards with Miss D in 2017. Mr D questioned that. This case was then passed to me for a final decision.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached a different conclusion on this complaint to our investigator. But as the proposed resolution has been discussed with both sides, and they've had an opportunity to comment on it, this decision will be final.

I contacted Santander, and said that, although we had very little evidence from the time, I'd approached this case on the basis that the lending to Miss D couldn't be shown to have been responsible.

I asked if Santander would reconsider its position on not removing the defaults on Miss D's credit file. I also said to Santander that Mr D has told us that Miss D was on medication for mental health problems at the time she ran up these debts, and was having counselling. She remains on medication for these problems now. I hadn't seen anything that made me think that Santander should've been aware of this at the time that it lent this money, but I thought Santander might want to consider this when it was thinking about the appropriate way forward now for these debts.

Santander asked for more information about Miss D's health, and after Mr D gave permission on her behalf, we shared with Santander what he had told us.

Santander said that after the refunds it had already offered, the two debts would be £5,420.06 and £3,682.28. But it said that it was now offering to bring both these debts back in house, and not to pursue them. Santander also said it had considered Miss D's mental health, and it would remove both defaults, which dated back to late 2012, from Miss D's credit history.

Mr D took some time to consider this with his daughter. He then responded to say that he wanted to check that Santander was now proposing to treat the two debts (if there were two debts) as one, and it would waive that one debt altogether and permanently. And he said that Santander also appeared to offer to erase the debts, and all records of them, permanently from Miss D's credit record. Mr D wanted confirmation that these debts wouldn't affect Miss D's ability to get credit in the future. And he queried whether the date that the defaults were due to be removed, of December 2017, could be right.

Mr D told us that Miss D would accept, if the offer meant the permanent erasure of the debts historically incurred on Miss D's long defunct Santander credit card(s) from 2013 onwards. And that no records of the defaults on the card(s) would ever appear on her official credit file whether now or in future.

Mr D also asked that we suggest to Santander that it paid a total of £1,500 in compensation, to be divided equally between three parties. Two of these were charities he named, and the third was Miss D. He said that Santander should pay this in recognition of the five years of acute mental anguish and chronic suffering that Miss D has endured.

Mr D doesn't seem to me to be indicating clear acceptance of the offer as it was put forward. I think he's asking for clarification on a number of points. So I've set out further details of what he and Miss D can expect here. They then have the option to accept my decision, and the proposed award, if they wish.

Firstly, I'd like to say that I'm satisfied, on the evidence I've seen, that there were two separate card accounts. Santander isn't proposing to treat these as one debt. But it is proposing the same resolution, for each debt.

Mr D wanted to know whether these debts would ever be pursued in future. I can offer Mr D and Miss D reassurance on that point. Santander has made it clear that these debts will not be pursued in the future. And that's what I'll require, in my award. So Miss D won't be asked to pay this money back.

I can also tell Santander to request the removal of the two defaults from Miss D's credit file with all three of the major credit reference agencies. And I will do that. I can't require Santander to give Miss D wider assurances about what information a credit reference agency will hold on her in the future, or how a future lender will assess her creditworthiness. That's just because those are things that aren't within Santander's control.

Closed credit card accounts will usually cease to be shown on a credit record six years from the date of the closure. These accounts were both closed in late 2012, so I expect that this lending would no longer be visible on Miss D's credit file by the start of next year, in any event. I can require Santander to use its best endeavours to make sure that three major credit reference agencies don't show these defaults any more. And I will do that.

Mr D also suggested Santander should pay some compensation. It's not my role in this complaint to seek to mediate between the parties. So I wouldn't put an offer forward to Santander, unless I thought it was fair. And in this case, I think that what Santander has already offered is fair. So I won't also suggest that it pays compensation to Miss D. And our service can't compel Santander to make donations to charity.

### **my final decision**

My final decision is that Santander Bank Plc must take back in-house the two credit card account debts belonging to Miss D, and it must ensure that those debts are no longer pursued. It should also use its best endeavours to make sure that the defaults for both these accounts are no longer recorded on Miss D's credit record with the three major credit reference agencies.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 28 December 2018.

Esther Absalom-Gough  
**ombudsman**