

complaint

Mrs H (as administrator of the estate of Mrs N) complains about irresponsible lending by Santander UK plc.

background

Mrs N took out two loans and two credit cards with Santander. A complaint about one of the loans was made too late for the purpose of our rules, so this decision is limited to my findings in connection with loan ending 516, and credit cards ending 187 and 281.

I issued a provisional decision on this complaint on 13 December 2018. A copy is attached and forms part of this final decision.

Mrs H said she didn't have anything to add in response to my provisional decision.

Santander said, in summary, that Mrs N's application for credit card ending 281 had been properly assessed by its underwriters. It maintained that the decision to open the account was appropriate because Mrs N could afford the credit.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've noted everything Santander has said and provided. It's supplied a record of the data it relied on to assess Mrs N's credit card application, which included (amongst other things) her income and expenditure, her credit agency risk score and Santander's internal risk score.

I accept that on her credit card application Mrs N recorded her monthly non-mortgage credit expenses as £200. But her monthly repayments for the £10,000 Santander loan were £233, and Mrs N's total unsecured debt was over £16,000. So I think it's likely that Mrs N's monthly repayments towards her unsecured debt were rather more than the £200 she quoted.

As I mentioned in my provisional decision, I think the activity on Mrs N's current account at the time she applied for the credit card should've suggested to Santander that she might have been struggling with her finances.

Santander points out that she operated within her agreed overdraft, and brought the account back into credit each month once she'd been paid. But I'm mindful that Mrs N had a fairly regular pattern of reaching her overdraft by the middle of the month. And given the extent of her unsecured borrowing, I still think Santander should've checked more carefully that Mrs N would be able to afford to pay for another credit card. From what I've seen, I'm not persuaded that Santander's checks were as robust as they might have been.

For that reason, I remain of the view that all interest and charges applied to credit card ending 281 should be refunded to the account to reduce the balance.

my final decision

My decision is that I uphold this complaint in part. I direct Santander UK plc to refund all interest and charges applied to Mrs N's credit card account ending 281. The refund should be used to reduce the amount owing on the account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H (as administrator of the estate of Mrs N) to accept or reject my decision before 16 February 2019.

Caroline Stirling
ombudsman

Copy of Provisional Decision

complaint

Mrs H (as administrator of the estate of Mrs N) complains about irresponsible lending by Santander UK plc.

background

Mrs N took out two loans and two credit cards with Santander. A complaint about one of the loans was made too late for the purpose of our rules, so this decision is limited to my findings in connection with loan ending 516, and credit cards ending 187 and 281.

Mrs H says Santander's lending was irresponsible because Mrs N couldn't afford the credit.

Our investigator didn't recommend the complaint should be upheld. He didn't think there was enough evidence to show that Mrs N was struggling financially when she took out the loan and credit cards, or that Santander failed to properly check her circumstances.

Mrs H didn't agree with the investigator's conclusions, and asked for the complaint to be reviewed by an ombudsman.

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.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my conclusions on the balance of probabilities – that is, what I think is most likely to have happened in light of the available evidence and the wider surrounding circumstances.

Mrs N took out credit card 187 in August 2012, and loan 516 for £10,000 in October the same year. She took out credit card 281 in March 2013.

Mrs H has provided a copy of Mrs N's credit file, which shows she had a number of other credit facilities when she took out the loan and credit cards that are the subject of this complaint.

Mrs H says Santander failed to properly assess Mrs N's existing debt when it offered her further credit. She's also unhappy that Santander can't provide the evidence it relied on to make its decision to lend. I can understand that, but I'm mindful that these events took place a number of years ago. We wouldn't expect Santander to maintain indefinitely the records Mrs H is seeking.

I've looked carefully at the credit report Mrs H has provided, and the activity on Mrs N's bank account when the loan and credit cards were arranged.

I accept that Mrs N had several other credit facilities when she took out the loan and credit cards. But the credit report indicates that she didn't start to default on her existing facilities until after the Santander loan and credit cards had been arranged.

In addition, there is nothing to suggest from Mrs N's bank account activity that she was struggling to manage her finances when she applied for credit card 187 and the £10,000 loan. When she applied for that lending her account remained in credit and she doesn't appear to have needed to use an overdraft.

But when Mrs N applied for credit card 281 in March 2013, I think her current account activity should've indicated to Santander that she was having difficulty managing her finances.

There were some warning signs from around the time she took the loan in October 2012. Nearly £8,000 was paid out immediately, and Mrs N appears to have used the rest to live on.

Bank statements from January, February and March 2013 then show that she was having to use her overdraft by the middle of the month. I accept that the overdraft amounts weren't excessive – but Mrs N's income was fairly modest and she was paying a mortgage and loan repayments from it.

The evidence available to assess whether Santander properly reviewed Mrs N's circumstances is limited. But from what I've seen, I think the bank should've realised she wasn't in a position to afford another credit card in March 2013. So I've thought about what it should do to put things right.

Even though I think Santander shouldn't have offered credit card 281 to Mrs N, I have to keep in mind that she had the benefit of the credit she used. So it wouldn't be reasonable for me to ask Santander to write off the account balance. But I think it should refund any interest and charges that have been applied to the account. This can be used to reduce the overall balance.

However, I'm not persuaded that Santander acted unreasonably or irresponsibly when it offered credit card 187 and the £10,000 to Mrs N in 2012. So I'm not asking it to do anything in respect of those.

my provisional decision

My provisional decision is that I intend to uphold this complaint in part. I intend to direct Santander UK plc to refund all interest and charges applied to Mrs N's credit card account ending 281. The refund should be used to reduce the amount owing on the account.

Caroline Stirling
ombudsman