

## **complaint**

Mr and Mrs L complain that Santander UK plc wrongly recorded adverse credit information about them. They say this has caused significant financial loss and inconvenience, for which they seek compensation.

## **background**

Santander provided Mr and Mrs L with current account facilities, including overdrafts. Following Mr and Mrs L's financial difficulties in 2006, Santander withdrew the overdraft on account \*7967, recording the account as being in default in October 2007. The parties agreed a repayment arrangement the following month, under which Mr and Mrs L made monthly payments of £176 to reduce the debt.

In December 2009, a further default was recorded, following the bank's formal demand. Santander subsequently passed the debt to a collection agent. The collection agent wrote to Mr L on 4 April 2011, to say that it would accept £1,100 in full and final settlement of the outstanding £1,585.75 balance.

Mr and Mrs L paid the £1,100, believing this to be the end of the matter. However, they subsequently expressed concern that Santander's records showed that a balance remained outstanding, and that the bank has continued to report adverse payment information on their credit files. They add that interest payments from a savings account held elsewhere have been applied against a balance they believe is no longer owed. Mr and Mrs L say that the bank's collection process has been poorly administered, and that this has caused them difficulty in obtaining credit. They believe the default information should be removed from their credit files and the debt recorded as settled, in line with the agreement made with the collection agent.

### *our initial conclusions*

Our adjudicator found that Santander issued the 2009 default notice correctly and accurately recorded this information on Mr and Mrs L's credit files at that time. The adjudicator did not consider Santander wrong to apply the interest payments received from the savings account in reduction of the debt.

Mr and Mrs L disagreed. They maintain that their payment of £1,100 was accepted in full and final settlement of the outstanding debt, which should be recorded as settled, rather than partially settled. They add that, since referring their complaint to us, Santander has acknowledged that it was wrong to record the 2009 default, and has offered £200 compensation. They have rejected the bank's offer.

### *my provisional decision and responses*

I issued my provisional findings on the complaint on 1 March 2013. In doing so, I explained why I was minded to uphold the complaint in part, and what Santander should do to resolve the dispute. In summary, I proposed directing Santander to amend the information recorded on Mrs L's credit file, and that the bank pays Mr and Mrs L compensation in recognition of their loss, distress and inconvenience. I invited the parties to let me have any further comments before I reached my final determination.

Santander accepted my provisional conclusions. Mr and Mrs L responded emphasising the steps they had taken to address matters with the bank, and expressing the view that the proposed compensation was inadequate. They said, in summary:

- although all the facts were available to us, we had provided only a partially accurate version of what had happened. Santander had not recorded defaults in 2007, but had incorrectly recorded the default twice in 2009;
- Santander had not closed account \*7967 when it received the £1,100 payment, but had continued to show the account as open and in default; and
- they had – through their own efforts – been able to find people within Santander who were willing to help, and had largely resolved their problems. However, they had suffered loss, distress and inconvenience costing them thousands, not hundreds, of pounds.

### **my findings**

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

I do not accept Mr and Mrs L's contention that Santander had not recorded defaults in 2007. As I previously set out, it is common ground that during 2007, Santander withdrew Mr and Mrs L's overdraft. The bank's contact notes indicate that Mr and Mrs L were aware of the bank's actions. The payment arrangement of £176 per month was set up on 6 November 2007 in direct response to the default following demand for repayment of the debt. Defaults are recorded on Mr and Mrs L's credit files dating from 2007, though these will shortly be removed due to passage of time.

The bank's contemporaneous notes also indicate that this payment arrangement was set up as a temporary measure, on the basis that the debt would be settled from an intended property sale within the next 12 months. I have seen nothing to suggest that the bank agreed to accept the monthly payments on a permanent basis.

As the debt was not cleared within 12 months, Mr and Mrs L did not keep to the arrangement they had made with Santander, even if they made payments throughout this time. So by January 2009, the bank was entitled to review the position and seek alternative proposals if appropriate. From what I have seen, Santander attempted this in May 2009, but did not receive a response. As a result, the bank took measures to limit further exposure, including blocking the issue of any further chequebooks to Mr and Mrs L.

By November 2009, Santander had not received any material response from Mr and Mrs L. It wrote to them on 4 November, erroneously stating that no payments were being received, but making formal demand for full repayment of the debt, which by then stood at £4,753.75. Mr and Mrs L did respond to this letter, pointing out that they had been making payments. They said they saw no reason to change the existing arrangement, as it was working well for all parties.

Santander clearly took a different view. It replied on 18 November, saying that it intended to record the debt as being in default unless full payment was made within 14 days. Mr and Mrs L did not make full payment. Instead, they called Santander on 9 December asking to make a different arrangement to settle the balance over four months. The bank was not willing to agree to that proposal, and started action to pass the debt for collection.

I can see why Mr and Mrs L might have wanted to continue with the arrangement they made in 2007. But Santander was not obliged to do so. There is no indication that Mr and Mrs L suggested they were still experiencing financial difficulty, such that I might expect the bank to have acted differently. Once Mr and Mrs L did not meet the formal demand, they were in default of it. They were given due notice, and told what would happen if they did not clear the debt in

full by the specified date. I do not find it was wrong for Santander to record the account as being in default in 2009, though any duplication of it should be – and indeed, has been – corrected. If the bank has gone further and removed all reference to a 2009 default, then that is up to it.

I now turn to the issue of the £1,100 Mr and Mrs L paid to the collection agent in response to the settlement offer it proposed. Although Mr and Mrs L say they were unaware how paying a lesser amount than the £1,585.75 due would affect their credit files, I do not accept this. The collection agent's letter of 4 April 2011 does not merely say that it will accept £1,100 in full and final payment. It also clearly states that by paying this amount, their credit files will show the balance as *"satisfied with a special flag of partial settlement."*

Mr and Mrs L's credit files show the balance as satisfied, with no further payment due, but with a status code of '8' indicating that it was partially settled. I consider this correct. However, in relation to the date the balance was satisfied, Mrs L's credit file shows a different date from her husband's file. This does not seem right to me. So while Santander has marked Mrs L's record to show as satisfied on 4 October 2012, I have proposed this be amended to 12 June 2011, in line with the date the bank recorded on Mr L's file.

Once the collection agent accepted the £1,100 in settlement of the debt on behalf of Santander, it agreed not to seek further payment from Mr and Mrs L in respect of it. That is not quite the same as receiving payments and applying them to the balance, however. Nor does it mean that the account would be closed or the default removed, as Mr and Mrs L seem to have assumed.

I can therefore understand why Santander would not automatically reject the interest payments it was receiving from Mr and Mrs L's savings account provider. But when Mr and Mrs L queried matters, I think Santander might have considered it appropriate to return the payments to them, rather than declining to do so. These payments total rather less than £20 – indeed, possibly less than £10 – but in the circumstances, Santander should return them to Mr and Mrs L.

Mr and Mrs L have said that they have managed to resolve most of their concerns themselves. The outstanding issue is that of appropriate compensation for the loss, distress and inconvenience they believe Santander's actions caused them. I agree that the bank could have explained matters more clearly, and that its handling of the complaint could have been rather better than it was. But what I have found is that – contrary to Mr and Mrs L's view – Santander has not really done much wrong in terms of its management of the debt. Having considered everything that Mr and Mrs L have said, both in their original submissions and in response to my provisional decision, I see no reason to reach a different conclusion here. I remain of the view that a payment of £200 – in addition to the payments the bank has already directly credited to their accounts in relation to this complaint – is suitable recognition of the difficulties they have experienced.

### **my final decision**

My final decision is that I uphold this complaint in part. In full and final settlement of it, Santander UK plc should:

1. amend Mrs L's credit file to show the date on which the debt balance was marked as 'satisfied' as 12 June 2011;
2. return to Mr and Mrs L any payments it applied towards the debt balance after the £1,100 payment was received by its collection agent; and
3. pay Mr and Mrs L £200 compensation

Niall Taylor  
**ombudsman**