

complaint

Mrs and Ms C complain that Santander UK plc defaulted their account and passed it to a debt collection agency even though they had been keeping to a payment agreement. They are being asked immediately to repay the full overdraft on the account.

background

Mrs and Ms C's joint current account was overdrawn for several years. Santander agreed to various payment plans from spring 2011 until the account was closed in June 2013. These all provided for payments of £20 per month and were for fixed periods, after which the outstanding balance was to be paid. Santander served several default notices during this period. Santander says that Mrs and Ms C kept saying that they had an on-going complaint against it, being dealt with by this service. It was because of this that it kept renewing the payment arrangements.

In June 2013, after serving the last default notice on Mrs and Ms C, Santander passed the account to a debt collection agency. It also told the agency to put the account on hold and suspend all interest and charges while this current complaint was being resolved.

The adjudicator felt that the number of default notices that were not followed by the account actually being defaulted, was confusing and that it should remove any that had been registered. She also said that Santander should have agreed a payment plan that would have settled the outstanding overdraft within a period that was acceptable to it.

Santander responded by referring to the references which Mrs and Ms C had made to an outstanding complaint. It also noted that it had told the customers that agreements were just short term repayment plans and that they needed to repay the balance in full. In April 2013 it had offered a six-month arrangement to clear the balance in full. But this was declined as Mrs and Ms C said that it was unaffordable.

Following the above response, the adjudicator noted that Santander could have checked whether the earlier complaint was closed and proceeded with the first default notice. She felt that this would have been more helpful. Santander disagreed and said that the actual date the default was registered was in June 2013 and that was correct. It had not defaulted the account previously, but had agreed various arrangements instead. Eventually, Santander agreed that it could change the date of the registration of the default to the date of the first default notice, which was sent in February 2011. Both parties subsequently requested that the complaint be decided by an ombudsman.

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 have looked at Santander's records. I am satisfied that in February 2011 Santander first told Mrs and Ms C that their account would be defaulted unless they paid the overdrawn balance on the account within 14 days. I find that, after that, the first payment plan was agreed. When that came to an end the balance was not repaid. However, Santander agreed further plans. I have seen that Mrs and Ms C kept referring the bank to their existing complaint against it, with which we supposedly were dealing. I find that this was, at the least, one of the reasons why the further arrangements were agreed. However, I am satisfied that

the only complaint that Mrs and Ms C had against Santander in which this service has been involved was settled in March 2010.

I find that Santander sent further letters in 2012 and 2013 telling Mrs and Ms C that their account would be defaulted and also that the credit reference agencies would be advised.

Overall, I consider that by agreeing the series of payment plans and putting the account on hold while it tried to resolve this complaint, Santander has acted sympathetically and positively to Mrs and Ms C's financial difficulties. This is what it is required to do. I also find that it continued to keep in touch with the customers throughout the time that the various plans were in place. However, I am unclear why the bank did not check whether the customers did have an outstanding complaint against it with us, but instead continued to agree to further plans.

I am satisfied that Santander was entitled to record a default in Mrs and Ms C's credit files even though they were keeping to the payment plans. They were still breaching the terms of their account. I also find that the bank was entitled to close the account and pass it to an outside agency for the outstanding balance to be collected. It does not have to leave the account open indefinitely and the amount being paid under the last payment agreement was not sufficient to pay off the overdraft within a reasonable time. The plans appear to have been of a nature to give the customers time to make other arrangements to pay the outstanding overdraft. However, I agree with the adjudicator, that Mrs and Ms C have been unnecessarily disadvantaged by Santander continuing to serve default notices, the latest of which was in 2013. The bank could easily have ascertained that there was no old unresolved complaint with us and brought matters to a head sooner, which I consider would have been more helpful to Mrs and Ms C.

For the above reasons, I find that a fair and reasonable resolution of this complaint is for Santander to change the date of the registered default. It should back date it to that which it would have been had the bank defaulted the account at the time of its first default notice. This will be advantageous to Mrs and Ms C as the registration will clear from their records sooner. I would, however, also encourage Mrs and Ms C to enter into early discussions with the debt collection agency with a view to agreeing a mutually acceptable arrangement to settle the debt.

my final decision

My decision is that I order Santander UK plc to change the default date of Mrs and Ms C's account shown in credit reference agencies' files to that which it would have been had the account been defaulted in accordance with the default notice served in February 2011.

Ros Barnett
ombudsman