

complaint

Mrs P complains that Santander Consumer (UK) Plc recorded inaccurate information on her credit file. Mrs P also complains that the default was registered later than it should've been.

background

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 6 March 2019 – a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I thought this complaint should be upheld. I invited both parties to send any additional evidence or comments they wished to make.

Santander responded to say it accepted my provisional decision. Mr P responded on behalf of Mrs P and asked some questions about the information in my provision 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.

Mr P has raised some concerns about the information Santander may report to the credit reference agencies and is worried about Mrs P's ability to secure credit in the future. Mr P has also asked about the timing of the default Santander registered against Mrs P and has asked whether it should be moved to 2015.

In this case, Mrs P's account entered into a payment arrangement around August 2015 (reported on the credit file as a Debt Management Programme) but that delayed Santander's decision to default it. Mrs P made the payments agreed to avoid the default for around a year and in line with my provisional decision Santander then took the step of defaulting the account. For clarity, Mrs P's account was only defaulted once, in November 2016.

Santander has agreed to amend Mrs P's credit file to reflect a payment arrangement instead of the Debt Management Programme. But this is still considered to be adverse information. So it's possible that could affect Mrs P's ability to get credit in the future.

I haven't told Santander to seek approval for the information it records on putting the decision into place. That's because there's only a limited number of things it can say on the credit file. And whilst my provisional decision says the Debt Management Programme should not be reported by Santander it is able to report a payment arrangement if it chooses to do so. If Mrs P is concerned about the information Santander reports if she accepts the decision she's welcome to refer her concerns back to us and we'll check whether the settlement fairly reflects my decision.

Having thought about the responses to my provisional decision I still think the settlement I've told Santander to put into place is the fairest way to resolve this complaint. As a result, I am upholding this complaint in line with my provisional decision.

my final decision

My decision is that I uphold this complaint in part and direct Santander Consumer (UK) Plc to remove any reference to a Debt Management Programme from Mrs P's credit file. I also direct Santander Consumer (UK) Plc to stop reporting any information about a Debt Management Programme to the credit reference agencies in relation to Mrs P's loan. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 April 2019.

Marco Manente
Ombudsman

copy provisional decision 6 March 2019

complaint

Mrs P complains that Santander Consumer (UK) Plc recorded inaccurate information on her credit file. Mrs P also complains that the default was registered later than it should've been.

background

Mrs P had a loan with Santander but experienced financial difficulties in 2015 which affected her ability to maintain payments. She contacted a charity to get some advice about how to handle her debts and completed an income and outgoings assessment. Mrs P was advised to approach her creditors and discuss her options and send Santander an informal payment plan request. Mrs P did that and Santander agreed to accept £1 a month towards the debt. Santander recorded a "Debt Management Programme" on Mrs P's credit file to reflect the arrangement.

Santander moved to default the account on 7 November 2016. Mrs P repaid the outstanding balance in February 2018 and went on to look at her credit file. She complained to Santander about the Debt Management Programme entry but it said her payment arrangement had been negotiated via the debt charity so the information was accurate. Mrs P referred her concerns to this service and an adjudicator looked at what had happened. They thought the information on Mrs P's credit file was correct and didn't agree the date of default was wrong so didn't ask Santander to do anything else. Mrs P didn't agree so her complaint's been passed to me to make a decision.

Mrs P is represented by Mr P in bringing the complaint.

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. Having done so, I've reached a different decision to the adjudicator.

There are two separate issues in this case. Whether Santander is reporting accurate information in terms of the payment arrangement it agreed in 2015 and when it should've fairly moved to default the account. I'll deal with each in turn.

*As I've said, I've reached a different decision to the adjudicator. I've looked at the Information Commissioner's Office's (ICO) guidance called Principles for Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies. The ICO guidance says: A debt management programme is when a **third party debt adviser** negotiates a repayment schedule for all or a number of a consumer's credit agreements.*

I'm satisfied that the industry guidance on this point establishes that for Santander to report a Debt Management Programme on Mrs P's credit file a third party should've negotiated it on her behalf. Santander says the debt charity did negotiate on Mrs P's behalf. But the evidence it's supplied doesn't support that and Mr P has sent a letter from the debt charity which specifically confirms it never acted on Mrs P's behalf to negotiate with her creditors.

Santander's recently sent us a copy of the 12 August 2015 temporary payment arrangement request it received from Mrs P. I agree that the letter says Mrs P received advice from the debt charity and was acting on the basis of what she was told in trying to reach an arrangement to pay £1 with Santander. But the request has come directly from Mrs P, not the debt charity. I also appreciate that Mrs P sent income and expenditure information from the debt charity. But, again, the request for a temporary payment plan was from Mrs P, not the debt charity.

As the payment arrangement wasn't negotiated by a third party adviser I haven't found Santander's accurately reported Mrs P's information to the credit reference agencies by saying she was in a Debt Management Arrangement. I'm satisfied the information Santander's reported isn't accurate so I intend to tell it to change it.

I need to explain to Mrs P that whilst I intend to tell Santander to remove the reference to a Debt Management Programme, it may decide to report a payment arrangement existed to make reduced payments instead. The guidance I've looked at from the ICO says businesses can report this type of temporary arrangement (and I'm satisfied that's what was agreed in this case) to the credit reference agencies. I just wanted to make Mrs P aware that while I agree there's an error, the resolution won't remove all traces of a reduced payment arrangement from her credit file.

Mrs P says that Santander should've taken the step of defaulting the account sooner. But the ICO guidance I've referred to above also says businesses will normally move to default an account when it's between three and six months in arrears. However, if the consumer is in an existing payment arrangement businesses won't normally register a default until the arrangement is broken.

Santander's recently told us that it moved to default the account after it wasn't able to make contact with Mrs P to discuss extending the existing payment arrangement. Given Mrs P had agreed to pay Santander £1 a month towards her debt, I think it acted reasonably by not defaulting the account until it wasn't able to confirm an extension of the payment arrangement. I'm sorry to disappoint Mrs P but I think Santander's decision to default the account in November 2016 was reasonable.

I appreciate Mrs P's circumstances meant she wasn't able to maintain her payments but I think Santander's decision to record the default with the credit reference agencies was fair so I'm not telling it to remove that information.

my provisional decision

My provisional decision is that I intend to uphold this complaint in part and direct Santander Consumer (UK) Plc to remove any reference to a Debt Management Programme from Mrs P's credit file. I also direct Santander to stop reporting any information about a Debt Management Programme to the credit reference agencies in relation to Mrs P's loan. Mrs P and Santander have until 20 March 2019 to send me anything further they'd like me to consider before I make a final decision.

Marco Manente
Ombudsman