

complaint

Ms M says Santander UK Plc has wrongly applied a default marker to her account.

background

Ms M says she came to a repayment plan through a debt referral agency that included making payments to Santander to clear her overdraft. She says Santander confirmed it was aware of this in November 2014. But despite this and although she maintained the payments agreed in this plan, Santander applied a default to her account in May 2015. Ms M says other businesses haven't applied a default marker while she complied with repayment plan and she's unhappy with Santander's approach. She says Santander is acting unfairly and it should now remove the default marker from her record.

Santander says although Ms M had agreed a repayment plan through the debt management company she hadn't come to a formal arrangement with it. It agreed she was making payments but said they weren't enough and her account was still in default. But it said it had written to her 28 days before the default marker was applied explaining this and why a default notice would be added to her file. And it had explained this to her over the phone as well. It said it couldn't remove the marker as it was a correct reflection of what had happened on her account.

The adjudicator considered the complaint but decided the default had been applied correctly and so he wouldn't be asking Santander to remove it. He accepted Santander was aware of the debt repayment plan but said this didn't mean it couldn't take action if the monthly repayments weren't in line with its own contractual requirements. And although other businesses had taken a different approach this didn't mean Santander had to do the same.

Ms M disagreed. She said the debt with Santander was an overdraft and so there weren't any formal amounts to be repaid each month. And she said she hadn't been aware of any the time limits for repaying the debt. If she had, she'd have tried to repay it within that time. She said she'd tried to repay her debts by setting up a repayment plan and thought Santander was being unreasonable. She asked for it to be referred to an ombudsman.

my 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 come to the same conclusion as the adjudicator and for broadly the same reasons.

I've seen that Ms M had tried to manage her finances by setting up a repayment plan through a debt management company. And I can see that she believed that, as Santander was aware of this, this would be enough and she didn't need to do anything more.

But even though Santander knew about the plan, it hadn't formally agreed it and as it's explained, the monthly repayments under the plan wouldn't have been enough to meet its own requirements. As a result even though Ms M was continuing to make payments, her account remained in default and Santander explained this to Ms M both in writing and in a telephone call in April 2015. On that basis even though I accept that Ms M was making considerable efforts to repay her debts as best she could, I don't agree Santander was incorrect to apply the default marker to her account. And following on from that, it's clear the

default notice on her credit record is a correct record of what was happening with her account at this time and so I don't agree Santander now needs to remove it.

I've considered whether Santander should have offered Ms M the opportunity to come to a formal repayment plan with it and so avoid a default notice. But on what I've seen, it seems Ms M wouldn't have been able to afford the monthly payments Santander would have required and that a longer term arrangement wouldn't have been possible because of the nature of the account. As Ms M has said, she would have found it difficult to pay more at this time and so I don't consider that this was an option.

Ms M says there wasn't a fixed amount that needed to be paid but there was the overdraft and unfortunately the repayments weren't enough to clear the debt in line with Santander's requirements and while I appreciate Ms M's position at this time, I don't think Santander was being unreasonable in the steps it took to deal with this.

I appreciate that other businesses may have taken a different approach but that doesn't mean Santander has to act the same or that its approach was wrong. I realise Ms M may be disappointed by my decision but I won't be asking Santander to do anything more.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 9 January 2017.

Cerys Jones
ombudsman