

## **complaint**

This complaint is about a loan, and the payment protection insurance (PPI) policy taken out to protect it. Mr and Mrs R complain about the way Santander UK Plc dealt with them when they fell behind with the repayments after Mrs R lost her job. They are particularly unhappy that Santander recorded adverse information on their credit files about missed payments during the period they were trying to claim on the PPI.

## **background**

The circumstances of this complaint, briefly, are that in 2009, Mr and Mrs R took out a joint personal loan of £20,000. The loan was arranged with PPI, so when in 2010, Mrs R's recruitment agency stopped trading, they contacted Santander to tell it they were in financial difficulties. They also submitted a claim form under the employment provisions of the PPI policy.

The claim was handled not by Santander itself, but by the insurer, Aviva. In January 2011, Aviva confirmed receipt of the claim. In the meantime, Mr and Mrs R made occasional payments to the loan account, as and when they were in a position to do so. In June 2011 Aviva rejected the claim, the reason given being that Mrs R had not complied with the policy term requiring her to enter into a Jobseeker's Agreement with the Department for Work and Pensions (DWP).

At this point, Mr R brought forward his police pension, releasing funds which they used to repay the loan in full. Whilst the arrangements for this were being finalised, and in spite of being aware of what Mr R was planning to do, Santander terminated the loan, referred it to debt collectors, and registered a default on Mr and Mrs R's credit files.

The adjudicator concluded that by registering the default loan even when it knew the loan was soon to be repaid in full, Santander treated Mr and Mrs R unfairly. She recommended it remove the default, and pay Mr and Mrs R £300 compensation. Santander agreed to this, but when the adjudicator put the settlement proposal to Mr and Mrs R, they rejected it. They are unhappy that their credit files are still adversely affected by the recording of missed payments between January and June 2011, when the claim was being considered.

Mr and Mrs R believe the delay was excessive, and that they should not be penalised for it.

## **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 trust Mr and Mrs R will not take it as a discourtesy that I have condensed their complaint in the way that I have. I believe I have captured the main thrust of their arguments.

I do not need to consider whether Santander acted fairly or reasonably when it defaulted the loan. The bank has accepted that it did not, and has offered what I regard as reasonable redress for its actions. What remains in dispute, and what I must decide here, is whether Santander should be required to remove the entries from Mr and Mrs R's credit file recording missed repayments during the first half of 2011.

There is no dispute that Mr and Mrs R did not make all of their monthly loan repayments between Mrs R losing her employment and the loan being repaid in full. In that context, the entries on their credit file are factually correct.

All other things being equal, it seems reasonable to conclude that the entries should remain. We would normally only decide otherwise if we were satisfied that the entries were either factually wrong (which they are not) or because the missed payments they report were themselves a consequence of an act or omission on the part of the business that recorded the entries (i.e. Santander).

Mr and Mrs R argue that the delay in handling their claim was the dominant factor. Of course, it was not Santander that dealt with the claim, but Aviva in its capacity as provider of cover. Generally speaking, it would not seem that the delay could fairly be regarded as an act or omission on Santander's part. Meanwhile, insofar as the complaint before me is brought against Santander – and not Aviva – then in the normal course of events, I would not make any findings on whether Aviva unduly delayed its handling of the claim.

Nonetheless, I accept that some consumers do not necessarily appreciate the distinction between the roles of lender and insurer in situations like this, particularly where, as here, the policy was sold by the lender and/or the lender acts as a communication channel between the policy holder and insurer. Here, Aviva wrote a number of letters on Santander letterheads, so, for completeness, I have considered the chain of events between January and June 2011.

There is no dispute that Aviva wrote to Mrs R on 19 January 2011 to say it was considering the claim. Nor is it disputed that it wrote to Mrs R on 10 June 2011 to say her claim would not be accepted, because she had not registered with the DWP. However, Aviva has also provided a copy of a letter it sent to Mrs R on 20 January 2011, explaining that it required her to register, and to return to it a copy of the relevant registration form within 14 days.

Aviva has also provided a contemporaneous file note to the effect that it received a telephone call from Mrs R on 16 February 2011 asking for an update on her claim. It further notes that later the same day, it attempted to call Mrs R back to remind her that it needed her to send in the registration form, but the call was not answered.

Mrs R says she received neither the letter nor the telephone call, and maintains that Aviva should have made more efforts to chase the information. I consider that I can attach some weight to Aviva's records, such that I am persuaded on the balance of probabilities that it made reasonable attempts to obtain the information it needed from Mrs R to expedite her claim.

In making this finding, I am happy Mrs R has presented her best recollections of what she did or did not receive. It is possible that she is mistaken in her recollection, and the letter did arrive. But it is also possible that the letter did not reach her, and it is possible she was unaware of Aviva's attempt to call her back on 16 February 2011. But in any event, I consider the onus to ensure the claim progressed lay with Mrs R; Aviva was not obliged to continue issuing requests for the information.

Finally, however, I note that Mrs R has told our adjudicator that when she became unemployed, she did not register with the DWP, because she only wished to pursue new employment in her own field; i.e. recruitment, and that had she taken a job in another field, it would have hindered her looking for recruitment work. This gives me cause to consider the

possibility that, had she received Aviva's letter or phone call reminding her that she needed to register with the DWP, Mrs R would have declined to do so in any event.

Overall, for the reasons set out above, I am not persuaded I can fairly conclude that Santander, whether directly or indirectly, unduly delayed Aviva's consideration of Mrs R's unemployment claim. It follows that I do not find that the adverse information it recorded about the missed loan repayments whilst the claim was being considered should be removed.

### **my final decision**

For the reasons set out above, my final decision is that I uphold this complaint in part only. In full and final settlement, I direct Santander UK Plc to:

- remove the default it recorded on 4 July 2011 in relation to Mr and Mrs R's loan; and
- pay Mr and Mrs R £300 compensation for distress and inconvenience.

I make no other order or award.

Jeff Parrington  
**ombudsman**