

The complaint

Mr M complains that his loan was defaulted by Santander UK Plc (Santander).

What happened

In January 2020, Mr M borrowed £12,000 on a personal loan from Santander. It was payable over 60 months at £301.06 per month. In 2021, he ran into financial difficulty. He had a payment break due to the pandemic, and then left his job at the end of 2021. In March 2022, Santander agreed to a payment plan with monthly payments of £50. Mr M made payments of £50 on 1 April 2022, 1 May 2022, and 1 June 2022.

On 14 June 2022, Santander sent a Notice of Default with the balance at £11,383 and arrears of £1,957. On 18 July 2022, Santander defaulted the loan with the balance £11,520 and arrears £2,258. In July 2022, the debt was passed to a debt collection agency (DCA) to manage.

Mr M complained. He said he had no idea that the payment plan would lead to a default. He had kept up the payments of £50, so the default was unfair. And – he started work again in February 2022, so could afford to go back to the contractual payments anyway. He said he didn't get the Notice of Default. He said the default was unfair and should be removed.

Santander said they'd looked at Mr M's income and expenditure form and considered he couldn't afford the repayments of £300 per month. They sent a Notice of Default on 14 June 2022 and as no alternative arrangements were made within 28 days of it, they defaulted the loan and pass it to a DCA.

Mr M didn't agree and brought his complaint to us. Our investigator issued two views. The first one didn't uphold Mr M's complaint. It said that by March 2022, Mr M was already three months in arrears. And as £50 per month (then agreed) didn't meet the amount needed under the loan agreement, more arrears built up after that. The budget plan completed in July 2022 showed Mr M could afford £89 per month – which wasn't enough to clear the arrears and resume payments at the original amount. So – Santander defaulted the account – when the loan was six months in arrears.

Our investigator then reconsidered the evidence and said that Santander should've realised in March 2022 that Mr M was already three months in arrears. But Santander still agreed to a payment plan which made for three months at £50 per month and to be reviewed in June 2022 – after which he could remain on the payment plan at £50 per month for another three months (to September 2022). He could then return to normal payments. Because Santander didn't take account of Mr M's existing arrears, he said they should pay compensation of £100. But – he said the default was still fair as Mr M had six months arrears by June 2022.

Mr M didn't agree – he said the default should be removed. He thought he was on a payment plan with a view to returning to full payments (or reduced payments) over a period. He said he was never made aware of the potential for default because of being on the payment plan. He also said Santander should offer him an interest free loan to help him repay it.

Mr M asked that an ombudsman look at his complaint, and so it has come to me to do that.

I issued a first provisional decision which said:

The crux of Mr M's complaint is – what happened in March 2022, and what did Santander advise him at the time.

I can see that by March 2022, Mr M was in arrears by £1,204 – about four months' worth of payments. Santander's records show he completed an income and expenditure form then which showed a deficit of £60 per month. Mr M has shown us that he returned to work in February 2022 – so he says he was aiming to get back on his feet after that. He showed us he was receiving a net income of about £3,000 per month with effect from March 2022 – so I can see why he was aiming to put things back in order with Santander and his other creditors.

The call on 4 March 2022 is important and I listened to it. Mr M explained that he had returned to work. He had submitted a revised budget planner online in the last few days.

This showed his new income of £3,200 each month – but a deficit of £60 was still shown after all expenditure was taken into account. Santander's call handler clearly described what Santander offered. She said Santander could offer a payment plan for three months (i.e. to the end of June 2022); and it could then be extended for another three months (i.e. to September 2022). She said that after that time, a further 18 months could be allowed for Mr M to make increased payments and to clear the arrears. She went on to quote that payment of the arrears (then £1,204) over 21 months would mean Mr M could pay them off at £57.34 each month.

So – she said that from March 2022, Mr M could have a 24-month payment plan. This was to start with three payments of £50 on 1 April 2022, 1 May 2022 and then 1 June 2022 – and Mr M was then to call Santander to discuss the further 21-month arrangement. The call handler repeated – that the arrears would then be cleared over a further 21 months, giving a payment plan of 24 months. Mr M agreed to pay £50 each month on the call. The notes on Mr M's file record “*..can have 24-month arrangement...*”

She said a letter confirming the agreement would be sent in the post – but I can't see this was done.

So – I can see why Mr M thought he was on an agreed long term payment plan at £50 per month and was therefore surprised to receive the Notice of Default dated 14 June 2022, and then the actual default letter in July 2022.

I looked at the letters sent to Mr M about his loan – and many were sent about the arrears that were increasing in 2021, and there were four letters about the arrears sent between January 2022 and February 2022. But – I set these aside for the purposes of this complaint – because it is what happened in March 2022 – and the agreement to a payment plan which is important here.

The payment plan was agreed to on 4 March 2022 – but I can't see that Santander sent anything to Mr M after that time to confirm the payment plan, or its terms – for example, to say that arrears would continue to increase, that CRAs would be advised or that a default might follow because of the arrears. It would've been reasonable to expect the communication to be clear and not misleading about the plan - but on the evidence I've looked at, there weren't any. So – I can see why Mr M didn't realise a default might happen.

There weren't any letters sent to Mr M after 4 March 2022 until one on 3 June 2022. And this

letter said, “*Thank you for your payment towards the arrears on your Santander personal loan*”. So – taken with the call on 4 March 2022, I can see why Mr M would think this was a continuation of the payment plan discussed and agreed to then.

The next communication with Mr M was when Santander wrote to him – with the Notice of Default on 14 June 2022 and then the letter of default on 18 July 2022. Mr M then called Santander and completed a further budget planner – which showed he had a surplus of £89 each month. Santander said that wasn’t enough to increase his payments and proceeded with default processes. Mr M says this wasn’t fair because of the call on 4 March 2022 – he says if he had known, he could have made the payment from his income, or borrowed from friends and family. And I think it’s reasonable to say that by the time Mr M called Santander (on 27 June 2022), matters had moved on and it was too late for Mr M to have done anything about the Notice of Default he had just received – as he had been depending on the knowledge that he had a payment plan – since 4 March 2022. He had made the payments of £50 each month since then.

I must consider here – whether the call on 4 March 2022 was a firm agreement from Santander, and whether Mr M could rely on it. And – on the balance of evidence and in the circumstances of this complaint, I think it was. It was a detailed call and Santander’s call handler confidently spelt out the 24-month arrangement. And there wasn’t anything sent in writing to say (for example) that that the arrangement might not happen, that arrears would accrue or lead to a default. If there had been, my provisional decision might be different. So – I think Mr M was entitled to think the loan wouldn’t be defaulted.

Mr M has asked that Santander agree to a zero-interest loan to help him repay it, but Santander have said they don’t offer that, which I accept.

Therefore, my provisional decision is that Santander should:

- Remove the default dated July 2022, and any other adverse information since that time from Mr M’s credit file.
- Take the loan back from the DCA and agree a mutually satisfactory repayment plan with Mr M. Mr M must be certain he can now afford to meet the contractual payments to the loan – because if he can’t then he may default again. And any default would last for six years from that future date. Mr M has said to us that he can afford to return to the contractual repayments – so subject to what Santander agree, that looks to be a good alternative here.

As our investigator has recommended, pay compensation of £100 for distress and inconvenience.

Responses to the provisional decision:

Mr M accepted what I said, but Santander didn’t. They said:

- The budget planner that Mr M completed in March 2022 showed he couldn’t afford the repayments of £301.06 per month.
- When he called Santander on 4 March 2022, he was already four months in arrears. Mr M said he couldn’t afford to recommence the full payments but a reduced payment plan of £50 per month was agreed to for three months. And after that time, this might be extended for up to total of 24 months – but this would be to clear the arrears over that period.
- The call handler said that arrears would still build up as the contractual payments weren’t being made.

- A reduced payment plan was agreed for three months – to June 2022, after which Mr M was to call Santander again. The call handler said that if the arrangement was broken or where it came to an end, then a default may be registered.
- Importantly, Mr M was sent a letter dated 4 March 2022 – which confirmed this arrangement. Santander have now shown this to us for the first time.
- Mr M was sent a further letter on 3 June 2022 – with the arrears at £1957.42. It said that credit reference agencies would be advised. Mr M was asked to contact Santander within seven days to discuss repayments. But – he didn't call Santander until 27 June 2022 (three weeks later), by which time a default notice had been sent to him (dated 14 June 2022).
- When Mr M did call Santander on 27 June 2022, he was advised of the consequences of defaulting on the loan – and the effect on his credit file for six years.
- Mr M contacted Santander again until 2 July 2022 – when he was locked out of his budget planner. He was asked to get back in touch when he could.
- Mr M didn't contact Santander again until 14 July 2022 – almost two weeks' later. By then, there were seven months' arrears. If Mr M could've borrowed funds from friends and family (even at that late stage), then the default could've been prevented.

I now need to consider this new evidence and come to a further decision.

Santander have come forward with evidence they'd not put to us before. But – it is part of our process that both or either party to a complaint can provide more information in response to a provisional decision. And after considering it, my provisional decision is changed.

I think that on balance Santander did make Mr M aware of his situation and :

- Advised him that he could pay the arrears off over 24 months – and not have an ongoing payment plan of £50 per month over that period.
- The letter dated 4 March 2022 sent to Mr M (and now evidenced) persuades me to say that overall, communications were clear and not misleading. The letter dated 4 March 2022 confirmed the telephone conversation and said, *“we confirm your repayment of £50 on 1/4/22 and further payments as agreed....please contact us at the end of this initial arrangement so we can agree the repayment of the remaining amount.....a record of this arrangement may be sent to the credit reference agencies we share data with.”*
- The letter dated 3 June 2022 then said, *“we now need to pay the rest of the outstanding amount if you can't make payment, then please call us in the next 7 days...please note we share information about your account with credit reference agencies...”*
- As Santander have said, Mr M didn't call them again until 27 June 2022 – three weeks later – when Santander had asked that he contact them within seven days. But by that time, Santander had sent him the Notice of Default, and matters had moved on. I can see from Santander's notes that Mr M was then advised of the potential for default and the effect on his credit file.
- Mr M called Santander on 2 July 2022 (as he was locked out of his budget planner and was asked to re-contact them again) – but he didn't call again until 14 July 2022, almost two weeks later.
- On 14 July 2022, Mr M called Santander and said he couldn't afford to pay £188 per

month – the minimum needed. Mr M wanted an interest – free loan instead, which Santander declined to agree to. Mr M then complained.

As the first provisional decision said, I could see how Mr M may have thought he had an ongoing, longer-term arrangement of £50 per month for up to 24 months. But having reviewed the balance of everything, including the new evidence now submitted, I'm satisfied that Santander made him aware:

- That the arrears could be repaid over 24 months, and a payment plan for £50 per month wasn't being offered.
- There was a potential to default and that credit reference agencies would be advised.
- That Mr M needed to call Santander again at the end of the three months' payment plan – in June 2022 - to discuss what could then happen.
- Santander wrote to Mr M on 3 June 2022 and asked him to get in touch within seven days, but Mr M didn't do that.
- That on 27 June 2022, Santander advised Mr M of the potential for default, and asked him to get back in touch.
- Santander said Mr M needed to pay £188 per month to avoid a default, Mr M couldn't afford to pay that and he asked for an interest-free loan and complained.

Therefore, in the circumstances of Mr M's complaint, I now think Santander acted reasonably – and this second provisional decision is that they don't need to do anything here.

Responses to the second provisional decision:

Santander accepted the findings, but Mr M didn't. He said:

- He repeated he was misled by Santander and the best solution would be to remove the default and he repay the loan at commercial rates. As it stands, Santander won't get paid any interest and will get less income – which doesn't make sense. He said he is now struggling with mortgage payments after the increases in mortgage rates.
- He said he was in financial difficulty and unable to work after being signed off by a doctor. He feels Santander didn't take that into consideration at the time.

I now need to consider the points made and make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

On Mr M's first point – I acknowledge what he says, but he will benefit by not paying interest on the loan with the debt collection agency. If he is now struggling because of increased mortgage payments, he must put his new situation (and his income/expenditure) to the debt collection agency for them to consider.

On his second point – this was the crux of his complaint and I considered how Santander treated him because of being off work. And I'm satisfied that in giving him periods of reduced

payments; and giving him the option of a 24-month period to pay off the arrears – they did treat him reasonably. That's in line with what we would expect firms to do when customers experience financial difficulty.

But – where reduced payments are agreed below the contractual amount needed, that can mean that after a period of arrears, a default can be registered. This is normally between three and six months. And in Mr M's case he was more than six months in arrears. So here – I'm satisfied that Santander operated within the guidance for dealing with customers in financial difficulty.

Therefore, having considered Mr M's points, my final decision is unchanged from the second provisional decision. And Santander don't have to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 July 2023.

Martin Lord
Ombudsman