

## **The complaint**

Mr M complains Santander UK plc complains (“Santander”) have recorded information on his credit file following a late payment.

## **What happened**

Mr M was due to make a minimum payment on this credit card account on 14 December 2022. The payment was made on 19 December 2022 after Mr M received an email notifying the payment hadn’t been received. Everyone accepts the payment was 5 days late as a result of a genuine oversight on Mr M’s part.

Mr M is unhappy that Santander reported a late or missed payment for this month to his credit file. He’s concerned that this will remain on his credit file for six years when the payment was only five days late and he has a history of never missing a monthly payment.

In its final response to Mr M’s complaint Santander said the information reported to the credit agencies for December 2022 is accurate as the payment was late. And Santander said it could only amend a credit file if it had made an error which they hadn’t here. As a goodwill gesture Santander refunded the late payment fee and the latest purchase interest charge to Mr M. They suggested he filed a notice of correction on his credit file to explain the position instead.

Our investigator upheld the complaint. Although she thought Santander had acted reasonably when refunding the late fee and the interest charge, she didn’t think it was fair that the credit file showed the December 2022 payment as a month late. She recommended Santander contact the credit reference agencies to remove the December 2022 late payment marker as Mr M had made the payment within the same month and the account isn’t in arrears.

Mr M accepted the decision but Santander didn’t and asked for an ombudsman to review the matter.

## **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.

I’ve come to the same conclusion as the investigator. I’ll explain my reasons.

Santander have referred me to the “Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies” issued by the Information Commissioners Office (“ICO”)

In asking for a final decision Santander said the information on the customers file is accurate and factual and should not be removed from it. They also say they are obliged to provide the credit reference agencies with factual information about how customers conduct their accounts. I don’t disagree with this but I think it has to be read alongside the first principle of

the ICO's guidance which is *"Data that is reported on your credit file must be fair, accurate, consistent, complete and up to date"*.

I've looked at extracts from Mr M's credit file for this account for a number of years and can't see any missed or late payments. Santander's own submissions - sent after our investigators view - state *"We can see that Mr M has habitually paid his faster payment for the credit card on or around 28th of each month from April 2022 to October 2022, this is well in advance of the required date each month. It seems he overlooked this at the end of November 2022 and ended up forgetting to ensure it was paid in time for Dec 14 December due date. Whilst we understand this is likely a genuine error, we are obligated to record factual information"*. Against this background - whilst I agree the information Santander recorded with the credit reference agencies is accurate - it doesn't seem, to me, to be *fair* or *consistent* as required by Principle 1.

Santander have drawn my attention to Principle 2 which states *"If you do not make your regular expected payment by the agreed time and/or for the agreed amount according to your terms and conditions, the account may be reported to the CRAs as being in arrears."* Whilst I agree there are requirements to supply accurate data, I think there's also an element of discretion here. Principle 2 doesn't mandate the reporting of arrears rather that it *may* be reported as being in arrears.

Taking into account the past payment history, Mr M's prompt payment when he realised the December 2022 one was late, his continued timely payments and Santander's acceptance this is likely to have been a genuine oversight, it seems to me, the reporting of the factual situation as a late payment is at odds with the fair requirement to be *fair* in Principle 1. I also think doesn't sit well with the stated purpose under Principle 2. That being *"reporting arrears is to indicate at the earliest reasonable opportunity that a customer is showing signs of potential financial difficulty or inability to manage his/her finances"*. There's no further evidence here to suggest that financial difficulty or an inability to manage finances was a factor for Mr M.

So, overall, I think Santander need to take action.

### **Putting things right**

Santander UK plc need to remove the late payment marker for December 2022 from Mr M's credit file

### **My final decision**

My final decision is that I uphold this complaint. Santander UK Plc must remove the late payment marker for December 2022 from Mr M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 November 2023.

Annabel O'Sullivan  
**Ombudsman**