

The complaint

Mr P complains that Santander Consumer (UK) Plc (“Santander”) irresponsibly granted him a conditional sale agreement he couldn’t afford to repay.

What happened

In July 2019 Mr P acquired a used car financed by a conditional sale agreement from Santander. Mr P was required to make 60 monthly repayments of £424.57, having paid a deposit of £500. The total repayable under the agreement was £25,974.20.

In 2022 Santander started court proceedings against Mr P to recover the car after Mr P had fallen behind with his payments. An order was made by the court for the car to be returned but it was set aside in November 2022, with an order for the consumer to pay the outstanding balance by instalments.

Mr P says Santander didn’t complete adequate affordability checks. He says if it had, it would have seen the agreement wasn’t affordable. Santander didn’t agree. It said it had carried out a thorough assessment which included carrying out a credit and identity checks.

Our adjudicator didn’t recommend the complaint be upheld. He thought Santander didn’t act unfairly or unreasonably by approving the finance agreement.

Mr P didn’t agree and said we hadn’t properly taken his financial circumstances into consideration.

The case has been passed to me for 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.

Santander will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

Santander says it carried out an identity and credit check before granting the finance. But as it hasn’t sent us details of those checks, I can’t see what if any, steps it took to verify Mr P’s income before approving the finance. Given the overall size of the borrowing, the monthly repayments and the term of the agreement, I think it would have been proportionate for Santander to have taken such a step to ensure it was affordable.

I also don’t know if Santander asked Mr P about his expenditure. Although it did complete a credit check, which didn’t show any defaults or other issues of concern in his recent financial history, this won’t have indicated what Mr P’s regular living expenses were. Without knowing what Mr P’s regular monthly commitments were, Santander wouldn’t have got a reasonable

understanding of whether the agreement was affordable or not. It therefore didn't complete proportionate checks.

I can't be certain what Mr P would have told Santander had it asked about his regular expenditure. I don't think Santander needed to request bank statements, but in the absence of anything else, I've placed significant weight on the information contained in the statements Mr P has sent us, covering the three months leading up to the agreement. This is helpful to gain a reasonable idea of what would most likely have been disclosed.

I see our adjudicator looked at these bank statements but I've also reviewed them myself. I agree that broadly speaking, the information shown in the statements suggests that the agreement was affordable for Mr P at the time he took it out. I've noted that the account was generally managed well and that Mr P did not find it necessary to make frequent use of any emergency or overdraft borrowing. I've also seen that Mr P's monthly income averaged out at around £1,700 per month. Whilst I agree that there is evidence of sums being transferred out of the account, there is no clear indication that Mr P may have been getting into financial difficulty during this time. I can't say from what I've seen that Mr P's finances were deteriorating such that Santander ought to have been alerted to the possibility that he didn't have adequate disposable income to meet the repayments required under the agreement.

Mr P says he had other additional expenses at the time. He says he was repaying a loan for another car and also suggests we haven't taken account of his housing costs and living expenses. I can see that Mr P was paying a regular sum to his own bank which appears to be the amount he was paying for an existing loan agreement. Mr P also suggests he was aware the sums showing his income on his bank statement weren't necessarily accurate because he wanted his income to look higher so he would be accepted for the finance. But I can only reach a finding based on what I think Santander was likely to have seen had it carried out more detailed enquires to gain a better idea of Mr P's financial circumstances.

Taking all of this into account, I agree that the agreement appears to have been affordable to Mr P. For this reason, I'm not persuaded that Santander acted unfairly in approving the finance.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 2 August 2023.

Michael Goldberg
Ombudsman