

## **The complaint**

Mr T complains Santander UK Plc treated him unfairly when he applied to port his mortgage to a new property.

## **What happened**

Mr T had a mortgage with Santander and he wanted to take this mortgage rate with him to a new property through porting the mortgage. He spoke with Santander ahead of his property sale to ask about the port process and he says he was told to make the application once his property had been sold. This would have meant Mr T would have been refunded his early repayment charge (ERC).

Mr T called Santander after he sold his property and had redeemed the existing mortgage and paid the ERC. At this point he made an application to port the previous mortgage to his new property. Santander declined the application and Mr T complained about the decision. He said he's lost out because of Santander's decision to allow the port. He needed to pay an ERC and moved to rented accommodation for an extended period when he was unable to obtain a new mortgage with Santander and he lost out on a property he was hoping to purchase.

Santander looked at the complaint and said it didn't think it had acted unfairly when the application was declined. It said it couldn't confirm what was said to Mr T and whether he was advised to sell his property before making an application to port his mortgage. This was not correct and he should have been told to make the application before the sale. But regardless of this, the application didn't meet its lending criteria and it didn't think it needed to do anything else including refunding the ERC that Mr T had paid.

Our investigator looked at this complaint and didn't think Santander needed to do anything else. She wasn't persuaded that it had provided Mr T with correct information about the porting process ahead of this being applied for. And he should have been told to make an application before he'd sold his previous property and redeemed the mortgage. But she didn't think this impacted the overall outcome which would have remained the same even if an application had been made at this point. She was satisfied that Santander had considered Mr T's application fairly and in line with its lending criteria. And regardless of when the application was made she didn't think it had done anything wrong when declining this.

Mr T disagreed and provided evidence of his credit score and information about his unsecured debts which were all repaid with the proceeds of his house sale. He didn't think Santander was treating him fairly when it didn't allow for these to be removed from his liabilities when his applications were made. He couldn't understand why he was being declined on affordability and he didn't think this was a fair outcome.

The complaint was reviewed by another investigator and their opinion matched that of the first. They didn't think Santander had acted unfairly when declining the new mortgage application and because the previous mortgage had been redeemed, it had correctly applied the ERC.

Because Mr T disagreed, the complaint has been passed to me for 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.

I've decided not to uphold this complaint for much the same reasons as our investigator. I know this will be disappointing for Mr T but I'll explain why I don't think it is fair to ask Santander to do anything else.

Santander has not been able to provide the initial calls where Mr T has said he was given incorrect information about the porting application and process. So it has not been able to say this wasn't said and it has been accepted that it did not give Mr T accurate information about the port and how this should have been applied for. Based on the call information that is available and later calls in May 2022, I agree that it does look likely Mr T was provided with incorrect information about this process.

What needs to be determined is, but for this error, is it more likely than not that Mr T would have been able to successfully port his mortgage. If this was the case it wouldn't be fair that he has lost out financially.

Mr T's previous mortgage allowed it to be transferred to a new property. This was providing the application met the lending criteria and affordability assessment done at the time.

Santander said when Mr T applied for a new mortgage after his previous one was redeemed, he didn't meet its lending criteria and because of this, the applications were declined. This was even after the application was referred to Santander's underwriters for consideration.

I've considered the information provided by Mr T and Santander's lending policy with a focus on the "Loyal Movers" criteria and whether I think Santander has fairly assessed Mr T's applications. This is because I agree it made an error when not giving clear direction on the steps he needed to take to apply to port his mortgage. And had it done this, this is the criteria it should have assessed his application against. Having done so, I am satisfied that his application for the new mortgage was not in line with this.

I cannot share the details of the tolerance levels as this is commercially sensitive to Santander and its policy. But the new property Mr T wished to purchase and port his mortgage to was cheaper than his previous property. Even with a reduced amount of borrowing there was a significant difference in the loan to value (LTV) ratio. The new properties valuation meant the LTV was moving from around 51% to 75%. This difference meant the application for the port could not be treated as a like for like and a full application and underwriting with credit checks would have been required.

Mr T has given a great deal of focus to his credit score and the impact of his loans and credit commitments being repaid with some of the equity of the previous property and that the credit file did not immediately reflect these debts being repaid. I understand the frustration on this point and belief that this was a key driver in the applications being declined, but I don't think Santander has done anything wrong when it assessed the applications it did and took these into consideration. It relies on the information on a credit file to understand the liabilities and commitments a borrower has elsewhere and it is unable to simply rely on confirmation that debts have or will be repaid if this isn't reflected on the credit reports.

When these had not updated, Santander was relying on the information available to it when

the checks were done. This meant the overall debt to income ratio was too high and Santander was not prepared to offer the mortgage. Mr T was offered the chance to apply again at a later date, allowing more time for all of his reports to update, but there is no sign of any application made with Santander after July 2022.

I know Mr T spent time focusing on getting his credit file up to date and he feels Santander failed to remove his previous mortgage balance as quickly as it should have too. But I've not seen anything to suggest it did anything wrong here and I don't think it would have affected a later application had one been made when the rest of his credit file had updated.

Mr T withdrew from the new property he was hoping to purchase in late August but as I've said, I've not seen he approached Santander ahead of this to see if its decision on the lending had changed based on his amended credit file. The previous Santander mortgage was still showing at this point but unlike external credit commitments where it relies on the credit file to confirm whether these are still in existence, it can confirm whether a balance is outstanding with it from its records.

Had Mr T made an application to port his mortgage before it was redeemed, I think Santander would have had the same concerns about the lending based on his other credit commitments. And Mr T would have needed to show these were repaid and this was reflected on the credit file before Santander could have agreed the new application. So I think he would still have had a period between the mortgage ending and him being able to do this. And so I think he would always have incurred some costs with needing to find alternative accommodation while being between able to purchase a new property with a mortgage and I cannot agree it would be fair for Santander to cover these.

Overall, I'm not persuaded that Santander has acted unfairly when it considered Mr T's application to port his mortgage. It did this retrospectively after it gave incorrect advice about this being made ahead of the move and so gave it fair consideration. It follows that when the previous mortgage was redeemed and the option to port the mortgage was not available, that the ERC has been correctly applied and I don't think it would be fair to ask Santander to refund this.

### **My final decision**

For the reasons I've explained above, I don't uphold Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 13 November 2023.

Thomas Brissenden  
**Ombudsman**