

The complaint

Mr B's complaint arises out of his mortgage account with Santander UK Plc. Mr B says that, because Santander allowed his estranged wife (Mrs B) to take out a new five-year fixed interest rate product on their mortgage, he has been financially disadvantaged. Mr B says that if the mortgage had gone onto the follow-on rate (which is what he wanted), Mrs B could not have afforded the repayments and this would have put pressure on her to sell the property. But because Santander allowed her to take out a new rate without his consent, Mr B says the bank has taken sides in his divorce, to his detriment.

To settle the complaint, Mr B wants the five-year interest rate product cancelled. He would also like the Financial Ombudsman Service to undertake an urgent review of Santander's policies, and for copies of all emails, phone recordings and any other correspondence Santander holds in relation to its decision to allow the new interest rate product.

What happened

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, Santander has acknowledged it made an error and has offered redress. So I don't need to analyse the events in detail in order to determine whether or not Santander has made a mistake; all I need to decide is whether the bank has done enough to put things right, or if there is anything further it needs to do.

Finally, our decisions are published, so it's important I don't include any information that might lead to Mr B being identified. So for these reasons, I will instead concentrate on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Santander has acknowledged that when Mr B went into the branch to change his address, this was done only for his current account, and not the mortgage. Consequently, when Mrs B applied for a new five-year fixed rate product on the mortgage, Mr B only learned about this when he noticed his direct debit had gone down.

Mr B says that this has caused detriment to him. He wanted the mortgage to go onto the follow-on rate in order to cause Mrs B financial difficulties, which would (he hoped) result in her agreeing to sell the property.

Santander accepted it made a mistake. The bank agreed, however, to waive any early repayment charge (ERC) if the property was sold within the five-year fixed rate period. Santander also paid Mr B compensation of £200.

Mr B wasn't satisfied with this and brought his complaint to our service. In addition to his dissatisfaction with the new interest rate product, Mr B was also unhappy with the way Santander had dealt with his complaint, and with the bank's policy of taking instructions from one account holder only.

An investigator looked at what had happened but didn't think Santander needed to do anything more than it had already offered. She was satisfied that, by agreeing to waive the ERC, Santander had ensured there would be no financial detriment to Mr B. She also thought the £200 paid was fair and reasonable. The investigator also explained that a complaint about complaint-handling didn't fall within the scope of our rules, and that we cannot tell Santander what policies it should have in place.

Mr B didn't agree with the investigator's findings and asked for an ombudsman to review the complaint. He's made no new points but has reiterated all the points he's previously made about why he considers he's suffered detriment.

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 can see that this situation has arisen from very unhappy circumstances – the breakdown of Mr and Mrs B's marriage. Mrs B isn't a party to this complaint, so I don't know her side of the story, but it's clear from what Mr B has told us that, from his side at least, matters are contentious. Mr B's told us that his intention was to force Mrs B into a sale of the property by ensuring that the mortgage went onto the follow-on rate, which he hoped she would find unaffordable.

The mortgage terms and conditions allow changes to be made on the signature of one party. However, if a marital dispute marker is entered on the file, this shouldn't happen. It appears that there wasn't a marital dispute marker on the mortgage file, which allowed Mrs B to make the changes to the mortgage.

Although Mr B wants all correspondence, calls, etc. that led to the change to the mortgage, I can't order Santander to provide this information. This is because I don't have Mrs B's consent to the release of her personal data. I also don't have any power to tell Santander how to run its business, or what policies it should implement in its day-to-day operations.

But in any event, Santander has accepted it made a mistake; when Mr B changed his address in the branch, this should have included his address on the mortgage account as well. If this had been done, Mr B would have been sent the mortgage offer for the new five-year fixed rate product.

Mr B wants this unwound, but I'm not going to tell Santander to do that. This is because Santander has offered to waive the ERC if the property is sold. Mr B says that the ERC is still showing on his online banking. It would, of course, still be showing as it is part of the mortgage contract. But Santander has confirmed in writing that it would be waived on any sale, so I am satisfied that this would be binding on the bank.

At the moment the monthly repayments on the fixed rate are lower than they would be on the follow-on rate, so there is no financial detriment to Mr B. I'm also satisfied that this is not, as Mr B claims, sex discrimination. It was simply human error in not changing the address on the mortgage account, rather than any attempt on the part of the bank to benefit one account holder over the other.

Mr B has told us that his matrimonial dispute with Mrs B is subject to court proceedings, as he wants to force a sale of the property. That, of course, is up to the judge to determine, in the absence of agreement between the parties. It is not something with which either Santander or the Financial Ombudsman Service can become involved. However, I am satisfied that the agreement to waive the ERC is unlikely to prejudice a sale of the property.

Mr B is also unhappy at the way Santander investigated his complaint. However, under our rules we can only consider a complaint about a regulated activity (in this case, the regulated activity is lending money secured on land) or matters ancillary to that (such as account administration or debt collection). The investigation of complaints, whilst it is something the regulator requires Santander to do, doesn't fall within the definition of either a regulated or ancillary activity. This means that I can't comment on the way Santander investigated the complaint, as it's not something that's covered by our rules.

I'm satisfied that Santander's offer to waive the ERC is fair and reasonable in all the circumstances, and does enough to put right the error in relation to the five-year fixed rate product. I'm also satisfied that the £200 compensation paid for distress and inconvenience is fair and reasonable in all the circumstances.

Given this, I'm not ordering Santander to do anything further.

My final decision

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 January 2024.

Jan O'Leary
Ombudsman