

The complaint

Miss L and Miss O are unhappy that Santander UK Plc declined their mortgage application. They initially believed the application had been approved, but was later unfairly declined, Santander claiming that Miss O didn't meet Santander's employment criteria.

As a result, Miss L and Miss O ultimately had to apply for a product switch with their existing lender at a higher rate of interest. They believe Santander should compensate them for the additional interest they will have to pay over the two-year fixed rate period.

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, our decisions are published, so it's important I don't include any information that might lead to Miss L and Miss O being identified.

In addition, Santander has accepted it made an error, so I don't need to analyse the events in detail in order to establish this; all I need to decide is whether Santander has done enough to put things right, or if there is anything more it needs to do.

So for these reasons, I will instead concentrate on giving a short summary of the complaint, followed by 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.

Briefly, in 2023 Miss L and Miss O, through a mortgage broker, applied for a mortgage from Santander. Miss O was employed through an 'umbrella' business, for which Santander required two years' employment, and which Miss O didn't have. The application was therefore declined.

Miss L and Miss O subsequently went to a different broker and took out a product switch with their existing lender. They are now on a two-year fixed rate product, at a higher rate of interest than they'd hoped to secure from Santander.

Miss L and Miss O complained. In its final response letter Santander acknowledged that it could have picked up sooner the issue with Miss O's employment, but unfortunately there was a delay of a few weeks before the bank identified this. Santander paid compensation of £200 as an apology for the delay. Miss L and Miss O weren't happy with this and brought their complaint to our service.

An Investigator looked at what had happened. He also noted that Miss L and Miss O had raised a complaint with us against their mortgage broker, arguing that the broker ought to have known what Santander's lending criteria were.

Overall, in relation to the Santander complaint, the Investigator was satisfied Santander had been entitled to decline the application, as it didn't meet the bank's lending criteria. He

thought Santander's offer of £200 compensation for the delay in relaying this information was fair and reasonable.

Miss L, who has dealt with the complaint throughout, didn't agree with the Investigator's opinion. In an email dated 24 December 2023 she set out her detailed reasons why she didn't think £200 was fair.

Miss L said that the Investigator had misunderstood the complaint. She said that it wasn't about Santander declining the application; rather, Miss L said that the delay in Santander dealing with it meant she and Miss O *"had to settle for a much less favourable mortgage agreement in the form of a product transfer with a much higher rate than anticipated ..."*

Miss L said that Santander had told her that the £200 offered was a goodwill gesture only and is therefore not a fair outcome, because the investigator hadn't considered the consequences of the error – which are that they weren't left with enough time to approach another lender who would have accepted Miss O's contract. Miss L says that Santander's error *"will continue to cause us financial loss over the next two years"*.

Because the matter is unresolved, it falls to me to issue a decision on the complaint.

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.

Having done so, I'm not going to order Santander to do anything further. These are my reasons.

First of all Santander has accepted it could, and should, have picked up the issue about the umbrella company sooner and declined the application when it was first reviewed. So there is no question that Santander made a mistake. Where a mistake has been made by a business we try, where possible, to put the consumer back in the position they'd have been in if the mistake hadn't been made.

Miss L says that, because of Santander's mistake, she and Miss O lost the opportunity to apply for a mortgage with a lender which would have accepted Miss O's contract; instead their only option was to take out a new interest rate product with their existing lender at a higher rate of interest. Miss L says that this must be taken into consideration, as this will cause them financial loss for the next two years.

However, I note that Miss L and Miss O also made a separate complaint to our service, this time against the mortgage broker. On 6 December 2023 a different Investigator upheld that complaint.

This was because the information about Santander's lending criteria in relation to applicants employed through umbrella companies was highlighted on its intermediaries website. The Investigator was satisfied, therefore, that the application should never have been made to Santander.

The Investigator on that complaint said:

"Had [the broker] not made any errors [Miss L and Miss O] would have been aware, at the end of April 2023, there was a chance that [the broker] may not have been able to find a mortgage for them. They would have been made aware in May 2023"

that their application would have been declined and that they should complete a product transfer with their current lender ...”

To settle that complaint, the Investigator thought the broker should compensate Miss L and Miss O for the difference between the rate of 5.89% they could have had if they'd applied for a two-year fixed interest rate product with their existing lender in May 2023 and the 6.99% two-year fixed interest rate they'd taken out several months later, as well as refunding the broker fee and paying compensation for distress and inconvenience.

The broker accepted this outcome, as did Miss L and Miss O. There were a small number of back-and-forth emails after 6 December 2024 on the broker complaint, but the outcome was fully agreed by 13 December 2024.

I am satisfied that Miss L and Miss O have therefore accepted compensation from the broker that puts them back in the position they'd have been in if the broker hadn't made an error.

But on 24 December 2023 – after Miss L and Miss O had already accepted compensation for their financial losses from the broker – Miss L asked for an Ombudsman to review this current complaint, arguing that Santander's error had meant that she and Miss O had had to take out a higher interest rate product with their current lender, and should be compensated for the additional cost of this over the two-year period.

I have some difficulty in accepting Miss L's argument that Santander should also compensate her and Miss O for the financial impact of the higher interest rate product they took out. This would amount to what is known as “*double recovery*” – that is, where someone receives compensation for the same loss twice from two different parties and arising out of the same set of circumstances.

This would be against the principles of fairness and natural justice, because it would result in what in legal terms is described as “*unjust enrichment*”. It would not be fair or reasonable for Miss L and Miss O to be compensated twice for the same thing.

I agree that Santander did make an error in not spotting immediately that Miss O's employment with an umbrella company didn't meet its criteria and it should have told the broker as soon as the application was received that it was outside its lending criteria. But I'm satisfied Miss L and Miss O have already been fully compensated in the redress they have accepted in full and final settlement of their complaint against the broker.

For the sake of completeness, I confirm that I agree with the outcome reached by the Investigator on the broker complaint – which is that it was mistakes made by the broker which ultimately meant that Miss L and Miss O had to take out the two-year 6.99% product switch with their existing lender.

So whilst there was delay by Santander, even if Miss L and Miss O had not already been fully compensated by the broker for its errors, looking at the whole set of circumstances and the actions of all the parties involved, I am not persuaded that a short delay by Santander ultimately resulted in the financial loss Miss L has claimed Santander should be held responsible for.

Given this, there is no basis on which it would be fair or reasonable to order Santander to compensate Miss L and Miss O for the additional interest on the two-year fixed rate product they took out with their existing lender. I'm satisfied that the compensation of £200 already paid by Santander is adequate compensation for the delay, taking into account all the circumstances of this complaint, and the wider circumstances in relation to the broker's actions. I am therefore 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 Miss L and Miss O to accept or reject my decision before 21 February 2024.

Jan O'Leary
Ombudsman