

The complaint

Miss C complains that Santander UK Plc misled her about her early repayment charge (ERC). She says its policy about when the 10% ERC free overpayment allowance applies is unfair.

Miss C asks that Santander refunds part of the ERC she paid and pays compensation for her time, trouble and upset.

What happened

Miss C had a mortgage with Santander with a five-year fixed interest rate product which was due to expire in December 2024. The product had an early repayment charge (ERC). However, Miss C was able to make overpayments of up to 10% of the balance each year without incurring an ERC. I'll refer to this as the fee free allowance.

Miss C called Santander in May 2022. Santander didn't give her correct information as to whether she could use her fee free allowance if she repaid the mortgage. She was told that she wouldn't be able to do this in late 2022.

Miss C says Santander misled her in May 2022. She says its policy to allow customers to benefit from the fee free allowance if they make an overpayment at least seven days before redeeming the mortgage is unfair. She says most customers aren't in a position to do this. Miss C says it makes no difference to Santander if it receives the payment in one payment or two separate payments.

Santander accepted the information given to Miss C in May 2022 was unclear and incorrect and paid £100 compensation to Miss C.

Our investigator said Santander applied the ERC in accordance with the product terms, and gave Miss C correct information about this in December 2022, before she repaid the mortgage. Our investigator said it isn't fair to require Santander to do more.

Miss C didn't agree. She said repaying a mortgage is making an overpayment – of the whole amount. She said the fact that Santander told her what it intended to do doesn't make it fair. Miss C says a customer could make an overpayment of almost all the balance and still benefit from the fee free allowance.

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.

Miss C took out a fixed interest rate product. As is usually the case with fixed rate products, the product terms included an ERC. This was calculated as a percentage of the amount repaid and was clearly set out in the mortgage offer. The mortgage offer said Miss C could make capital repayments of up to 10% of the outstanding balance each calendar year without having to pay an ERC.

Miss C called Santander in May 2022 to ask whether the fee free allowance would apply if she repaid the mortgage. Santander accepts that the information it gave Miss C at that time was incorrect and unclear.

Santander gave Miss C correct information – that the fee free allowance wouldn't apply when the mortgage was repaid – in late November 2022 and in its final response letter dated 8 December 2022. Santander told Miss C that it allows customers to benefit from the fee free allowance if they make an overpayment more than seven days before the mortgage is redeemed.

The regulator (the Financial Conduct Authority) allows lenders to apply ERCs, and the terms of the ERC were set out in the mortgage offer that Miss C accepted.

Santander gives customers the flexibility to make overpayments without incurring an ERC, within certain limits as to the amount and when the overpayment is made. I don't think it's unfair for Santander to offer customers this flexibility, or to have limits as to when it applies.

Santander gave Miss C correct information about when the fee free allowance applied, including that it doesn't apply when the mortgage is repaid in full, before she repaid the mortgage. I think Santander was entitled to apply the ERC, in accordance with the product terms, when Miss C repaid the mortgage.

Santander gave Miss C incorrect information when she called in May 2022, and I think it's fair that it paid compensation. But there's no evidence this caused Miss C any loss – the ERC was always payable under the terms of the product she took out. I don't think it's fair and reasonable in the circumstances to require Santander to refund the ERC, or any part of it, or pay further compensation to Miss C.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 26 September 2023.

Ruth Stevenson
Ombudsman