

The complaint

Miss F is unhappy with the amount of interest she's paid on her mortgage with Santander UK Plc. She says that, despite frequently asked Santander for help, it didn't offer her a lower interest rate and she considers that she has been in 'mortgage prison'.

What happened

Miss F took out a mortgage with Abbey (now Santander) in March 2008. She borrowed around £320,000 over 25 years on an interest only basis.

The mortgage was initially taken out on a two year tracker deal, with a starting interest rate of 5.64%. At the end of the initial term, the mortgage reverted to Santander's Standard Variable Rate (SVR).

Santander's contact notes show that in 2012 to 2013, Miss F contacted Santander because she was having some difficulty meeting her mortgage repayments.

In 2016, Miss F applied to Santander for a further advance, but this was turned down on the basis of affordability.

In 2017 Miss F contacted Santander because she was again experiencing some difficulty making her repayments. After missing one payment in August 2017, she then made two payments the following month, thus getting back on track straight away.

In 2019, Miss F again experienced some difficulty making repayments. She didn't make her contractual monthly payment in both May and September 2019, however on both occasions she made double payments in the months that followed (June and October 2019).

Then, from January 2020, Miss F was persistently in arrears.

In May 2021 Santander moved Miss F onto a different rate – its 'follow-on-rate'. This rate has similar flexibility, but is lower than the SVR. Around the same time, Miss F complained about the way the mortgage had been sold and also about the amount of interest she'd been paying over the years.

Santander didn't uphold the complaint. It said the mortgage had been sold via a broker and so any concerns about the sale would need to be directed to the broker. Regarding the interest Miss F had paid, it said that it was the customer's responsibility to ask about any different rates that are available.

Miss F complained to Santander again in January 2023. She said she had been struggling for much of the mortgage and had contacted Santander several times about this, since 2012. Santander upheld the complaint in part. It said that from January 2020, its financial support team should have made Miss F aware of any products with a lower rate of interest, that were available to her.

Santander calculated that had Miss F moved onto the lower rate in January 2020 instead of May 2021, she would've paid £4,346.32 less interest and it paid this money into Miss F's

account. Santander said it wouldn't backdate the interest any further, because Miss F hadn't requested a different rate before that time and it didn't have to proactively promote new rates.

Santander said it would also amend Miss F's credit file to reflect the correct amount of arrears from January 2020, taking account of the refund of interest. It also paid £350 to Miss F as compensation to reflect the impact of it having not switched the rate sooner than it did.

Miss F still thought Santander should've done more about the interest she was paying going back further and she referred her concerns to the Financial Ombudsman Service.

An investigator here issued an opinion on the case. They said that under the rules that set out what we can and can't look at, we could only consider the interest charged and action/inaction by Santander in the previous six years. They didn't think Santander needed to do anything further, because the onus was on a customer to request a different rate and Miss F hadn't done that.

The investigator noted that Miss F had contacted Santander on several occasions to make manual payments, but they didn't think this meant that Santander should have done anything further. They also thought the compensation offered was sufficient to recognise the impact of what had gone wrong.

Miss F didn't agree and asked for her case to be escalated to an Ombudsman. She said she had repeatedly asked for a better deal by telling Santander that she was struggling. She also said her credit file hadn't been updated as had been promised.

The case was passed to me to decide.

I asked another investigator to contact Santander to request further information about the further advance that was declined in 2016 and the contact in 2017, including any available call recordings. I also wanted to know why Santander didn't backdate the interest refund to when Miss F began experiencing financial difficulties in 2019.

Santander said it didn't have any call recordings available. It said that in 2016 Miss F had met all of the mortgage repayments, suggesting she wasn't struggling to meet the repayments on her existing mortgage. For 2017, it said that the payment issues were short term in nature, such that no arrears would have been reported to credit reference agencies. In terms of why the interest refund was backdated to January 2020 and not when Miss F experienced difficulties in 2019, Santander said this was because the follow-on-rate only became available to customers in arrears from January 2020.

I asked the investigator to share this further information and my provisional thoughts about the complaint, with Miss F. I said that I too thought I could consider six years back – from when Miss F first complained about the interest she had been charged (2021).

I said that I wasn't currently minded to say that Santander needed to do anything further, because the start point is that the onus is on a customer to request a different rate and I couldn't see that Miss F had ever done this.

I said that neither of the events in 2016 or 2017 meant that Santander ought to have proactively offered Miss F a different rate in the context of forbearance. I also said that although I wasn't necessarily persuaded by what Santander had said about the reason why it backdated the interest calculation to January 2020, the payment issues Miss F faced during 2019 all seemed short term in nature, at the time. So I didn't think there was a need

for Santander to go any further back than it had already done. I also said I thought the £350 compensation was reasonable and in line with our approach to compensation awards.

The investigator provided an update to Santander and asked Miss F to provide any further representations before I went on to make a final decision.

Miss F reiterated that she had experienced difficulties from 2012. She said that Santander had made reference to her having called to speak to them in 2017, so she thought there were call recordings. She said that her application for further borrowing was a clear sign she was struggling.

Miss F didn't agree that the payment issues had been short term. She said she had been in arrears and asked for help on multiple occasions. She said she'd paid £72,000 in extra interest and it wasn't acceptable that she had only been given a better rate when she asked in 2021. She also said her credit file hadn't been updated.

The investigator asked Santander for clarification of what it had (or hadn't) done regarding Miss F's credit file. It responded to say that it had worked out the position Miss F would've been in with the lower repayments and had updated the credit file accordingly. It supplied evidence of this.

The investigator also asked Miss F for a recent copy of her credit file. She replied to say that she could see there had been some changes. She reiterated how she felt strongly that Santander ought to have offered her a better rate when she had asked for help at various times.

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.

Both parties are aware and in agreement that I can look at the action/inaction of Santander in the six years leading up to the complaint Miss F raised in May 2021.

Miss F feels strongly that she has paid more interest than she should and that, had Santander enabled her to pay less interest (as she thinks it should have done), she would now be in a much better position than the one she finds herself in.

Santander has already conceded that it should have offered Miss F a lower rate before it did and it has paid Miss F an amount of money to reflect the unnecessary additional interest that she did pay. It also paid her £350 to reflect the impact of this.

I therefore need to decide whether this represents fair compensation or whether Santander needs to do more to put things right. This turns on whether there is a point in time before January 2020 where Santander ought to have enabled Miss F to be paying lower interest.

Having considered everything very carefully, I don't think this is the case and I am not going to say that Santander needs to do anything more than it already has. I appreciate this will come as a disappointment to Miss F, but I hope that my explanation helps her to understand why I've come to this conclusion.

Before I explain why, I want to set out my role as an Ombudsman. It isn't to address every single point that's been made to date. Instead, it's to decide what's fair and reasonable given the circumstances of this complaint. And for that reason, I'm only going to refer to what I think are the most salient points when I set out my conclusions and my reasons for reaching

them. But, having read all of the submissions from both sides in full, I will continue to keep in mind all of the points that have been made, insofar as they relate to this complaint, when doing that.

It would only be appropriate for me to uphold this complaint and say that Santander ought to have enabled Miss F to pay less interest, if one or both of the following were true:

- Miss F asked Santander for a different/lower rate and it didn't give the request fair consideration.
- Santander ought to have proactively offered Miss F a rate switch as a forbearance measure (potentially as part of a package of measures), given what it knew about her circumstances.

Miss F requesting a rate

It is not in dispute that Miss F did not ask Santander for a different rate before January 2020 (the date it has already provided redress to). The start point is that the onus is on a customer to ask for a different rate – in general there is no obligation for a lender (outside of financial difficulties in certain circumstances) to proactively offer an existing borrower a different rate.

Miss F has said that she repeatedly asked for a better deal by telling Santander she was struggling. While I appreciate Miss F told Santander she was struggling and she would perceive this as asking for a new interest rate, this isn't in fact the case. Asking for a new rate is different to someone saying they are finding it difficult to maintain their mortgage payments - they are not one and the same thing. It would be up to Santander to decide what forbearance may be suitable for Miss F and this would not always mean a new interest rate.

So, I've gone to think about whether the evidence suggests that Santander ought to have proactively offered Miss F a rate switch as a forbearance measure.

Was there a time before January 2020 when Santander ought to have proactively offered Miss F a different rate?

It is not the case that a lender needs to proactively offer a borrower a different interest rate at the first sign of any kind of financial difficulty. In the absence of a borrower requesting a different rate, the circumstances in which a lender should be thinking about proactively offering a different rate are typically where a borrower has experienced difficulty for a period of time but then their situation has stabilised.

In this type of situation, a lender offering a different rate as forbearance (potentially alongside other things such as capitalisation of any arrears), can help a borrower to be able to meet their repayments and get back on track.

When sharing my provisional thoughts about the case, I referenced three periods of time within the six years I can look at, where Santander's records indicate that Miss F was or may have been experiencing some kind of financial difficulty. These are:

- 2016 when Miss F applied for further borrowing;
- 2017 when Miss F had some difficulty making some repayments; and
- 2019 when Miss F was in and out of arrears.

Regarding the application for further borrowing in 2016, Miss F has I think suggested that the

fact she applied for the further borrowing was a clear indication that she was struggling financially at the time and that Santander ought to have offered her a different rate. However, someone applying for further borrowing doesn't necessarily indicate they're struggling with their finances. I haven't seen any evidence to indicate to me now (or to Santander at the time) that she was struggling in such a way that it would've been appropriate for Santander to offer Miss F a different rate on her existing mortgage.

The application for new borrowing was declined on the grounds of affordability. But this simply means that the Santander didn't think the *additional* borrowing would be affordable for Miss F. The mortgage account statements show that Miss F was making full repayments around this time, so I do not consider there was any reason that Santander ought to have proactively offered Miss F a new rate.

Regarding 2017, Miss F has said that Santander told her she had called in 2017 and so it did have call recordings. However, Santander has told me it doesn't have call recordings. It seems to me that the reference it made to Miss F about calls in 2017 may have come from its account/contact records (which I have seen), rather than any call recordings it had located. Given the passage of time, it is not surprising that Santander no longer has call recordings from this time.

In terms of Miss F's circumstances at the time, I still consider that the evidence suggests the difficulties she was facing making repayments appeared to be short-lived. I say this because after missing one payment in August 2017, she then made two payments the following month, getting back on track straight away. I still don't think it was necessary for Santander to proactively offer Miss F a different rate, in these circumstances.

Regarding whether Santander ought to have offered Miss F a rate in 2019, when she experienced further difficulties making her repayments. As set out in the provisional thoughts that I shared, the issues Miss F was having appeared to be short term in nature. She didn't make her monthly payment in both May and September 2019, however on both occasions she made double payments in the months that followed (June and October 2019).

Looking at the account history, it's not until January 2020 that the account becomes persistently in arrears. And this is the point that Santander already carried out its refund calculation back to.

Bearing in mind everything I've said, I still don't consider that there was a point before January 2020 where Santander ought to have proactively offered Miss F a different rate. I appreciate that Miss F feels strongly that she was in a 'mortgage prison'. However, I don't agree and I consider the steps Santander has already taken to put things right are sufficient.

As set out in my provisional thoughts, I still think that £350 represents a fair amount of compensation for the impact of Santander's error and is in line with our approach to compensation awards.

Finally, regarding Miss F's credit file, Santander has provided evidence that it has updated Miss F's credit file to reflect the position as it would have been had she been making the lower payments from January 2020. As such, I'm satisfied that Santander has done what it said it would do, regarding Miss F's credit file.

If Miss F still considers this not to be the case, she should raise this with Santander in the first instance.

My final decision

My final decision is that I don't uphold Miss F's complaint about Santander UK Plc, because I'm satisfied that the steps it has already taken to put things right, are sufficient.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 3 August 2023.

Ben Brewer
Ombudsman