

## The complaint

Miss H complains that Santander UK Plc approved a payment holiday and a rate switch on a joint mortgage without her consent.

## What happened

Miss H has a joint mortgage with Santander which has been in place since 2007. Miss H has told us that in 2016 she made Santander aware of a marital dispute between both account holders, but the joint borrower managed to apply for a coronavirus payment holiday from May to July 2020 and then again from September to November 2020 – without her consent.

Miss H said that the joint borrower also managed to apply for a product transfer which took place in March 2021. She said that having seen the product transfer form, it had 'pp' next to her signature which indicates that it was signed for on her behalf. She complained to Santander who reversed the product transfer, but she also had concerns that the same thing had happened in 2016 – which was again reversed.

Miss H has said that since the mortgage has transferred back to the variable rate, the joint party has stopped paying the mortgage and it's now in arrears. She said she doesn't want to be tied to the other party anymore due to an abusive relationship and she now lives in another house with her daughter which she is paying for – so she cannot afford to maintain both properties. Miss H said she is in financial difficulties and she's now concerned that this is having an impact on her credit file.

Miss H has explained she would like Santander to start repossession proceedings because she doesn't want to be tied to the other party and that this is all causing her a great deal of stress and anxiety and is now taking medication to help with this.

Santander apologised for what had happened with regards to the recent product transfer and offered to pay Miss H £150 for the inconvenience caused. But they didn't think that they had done anything wrong by agreeing a payment holiday. They said they were required to act quickly in response to the pandemic by offering support to those customers who were financially affected. Santander also explained that repossession would be a last resort and that this is very costly and would put Miss H and the other party in possibly a worse position.

Miss H disagreed with what Santander had said so she brought the complaint to our service where it was looked at by one of our investigators. Our investigator didn't think that Santander had acted fairly. He thought that Santander had failed to speak to Miss H about the payment holiday and the product transfer when Santander had a 'marker' on the mortgage account which detailed a marital dispute. Our investigator thought that Santander should pay Miss H a further £150 for the trouble and upset she had been caused, bringing the total compensation to £300.

Miss H didn't agree. In summary, she made the following comments:

- Santander should have contacted both parties regarding the payment holiday and isn't sure what they checked
- Fraud was committed by the other account holder and she doesn't agree that Santander were right to apply the payment holiday because of the pandemic
- The 'split marker' should have been on the mortgage account since 2016

- The mortgage account only went into arrears after the product transfer was reversed in 2021 and Santander should never have done this in the first place as it's encouraged the other party to stop paying the mortgage. She said they should also know what 'pp' means
- She now has markers on her credit file and would like the property to be repossessed
- This situation has caused her a great deal of stress and anxiety and she is now on medication so doesn't agree with the level of compensation offered

As Miss H remained unhappy, she asked for the complaint to be reviewed by an ombudsman, so it has been passed to me to decide.

### **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'd like to first clarify that this complaint is in Miss H's sole name however the mortgage in question is in joint names. This complaint is about Santander so in this decision, I will only be commenting on Santander's actions and not the actions of the other borrower who is not party to this complaint.

#### *Payment deferral*

When the coronavirus pandemic first hit and there was a nationwide lockdown, many people were financially affected. There were various measures that the government put in place as well as others across the industries. The regulator of financial services, the Financial Conduct Authority (FCA), told lenders that they should grant payment deferrals to borrowers whose finances had been affected by covid-19 and would struggle as a result to make their mortgage payments.

Those missed payments would be deferred, not written off, and extra interest would be payable because the balance of the mortgage would be higher as a result – but the deferrals would give borrowers some short term breathing space to find a longer term solution. During a period of deferral, no payments would be required. But because payments weren't being made, the balance is higher than it otherwise would have been so more interest is charged. The deferred payments and the additional interest will have to be paid back at some point during the life of the mortgage. Deferred payments would not be treated as arrears or reported to credit agencies as arrears due to the fact that payments are not expected on the mortgage.

Because of the anticipated volume of requests, it wasn't possible for lenders to make detailed enquiries of all those who applied for a payment deferral. The volume of requests came at a time when lenders themselves were impacted by the pandemic and having to find ways to work remotely as well as all the operational challenges that came with that change.

So as a result of this, the regulator said that lenders could grant a payment deferral where the borrower said they had been impacted, without the need for further checks. In this case, the mortgage was being paid for by the other borrower and the other borrower contacted Santander for a payment deferral which was accepted. Santander granted this request without checking to see if Miss H agreed to it. Given the circumstances at the time, I think it was reasonable that this application for a deferral was agreed the way it was – without further checks being made.

I do however understand why Miss H is unhappy about that. A change was made to the mortgage without her agreement. And she has told us that Santander should have had a marker on the mortgage account since 2016 explaining that there was a marital dispute so this payment deferral should never have been approved without her consent. Having looked at the contact notes that Santander have provided, I can see that they were aware of the

marital dispute between Miss H and the other party. So I think there should have been a marker on the mortgage account to reflect this. It appears that Santander were aware of the dispute and if there was a marker on the mortgage, in this particular case, they should have checked to see if Miss H consented to the payment deferral.

But as I've explained, due to the situation that the country was in as a result of the pandemic, I can also understand why Santander may not have checked to see if there was any reason why a payment deferral shouldn't be granted – because of what they were told by the regulator

As Santander have explained, this is a joint mortgage and Miss H is jointly and severally liable to make payments just as the other borrower was. There was nothing that would have prevented Miss H making those payments herself, if she was concerned about the other borrower missing them. I do understand that Miss H is now living in another property which she has said she is paying for and is in financial difficulties – so cannot afford both. I do empathise with her situation, but this mortgage is still joint.

Miss H has said that the break in repayments for six months would have been added to the overall amount with interest being added which she is now equally liable for. Had the payment deferral been refused or removed, and neither Miss H or the other borrower made payments to the mortgage, then the same amount of additional interest would have been incurred and added to the mortgage. The financial position would have been the same because the payments would still not have been made.

Santander were approached by the other borrower because he wasn't willing or able to make the payments to the mortgage. Had Santander refused or revoked the payment deferral, the mortgage would have been in a worse position as any missed payments would have been classed as arrears – which would also have impacted both Miss H and the other borrowers credit file.

I think in this situation, Santander were aware of a marital dispute so I think they could have done more to check if they should have granted a payment deferral in this situation and contacted Miss H to obtain her consent. But overall, I don't think they were unreasonable in applying it, for the reasons I've already mentioned.

#### *Product transfer*

I can see from the contact notes provided that the joint borrower applied for a product transfer in 2016 and after Miss H contacted Santander to explain there was a marital dispute, Santander reversed this and updated the correspondence address for Miss H. The notes confirm from this point that there was a marital dispute between both parties.

In 2021, the joint borrower again applied for a product transfer which Santander agreed. However, the mortgage offer was only sent to the mortgaged property – that of the joint borrower. Once the product transfer was agreed, Santander wrote to Miss H to confirm that it had been in place from March 2020.

Miss H has said the signatures on the product transfer form were the same for both parties, and having seen it, I can confirm they were. And that the joint borrower added a 'pp' next to her name to confirm he was signing on her behalf. I completely understand why Miss H was unhappy about this because she didn't sign the offer document.

Santander should have noticed this as it's clear both signatures are the same and I do agree with Miss H that they should know what 'pp' means. Santander shouldn't have agreed to the transfer, especially as there are notes on file to show that there was a marital dispute. However, once Miss H contacted them, this was reversed which is what we would have expected Santander to do.

#### *Arrears and repossession*

Miss H has raised concerns that the mortgage is now in arrears due to the joint borrower not paying the mortgage since the error with the product transfer. She believes that this has encouraged the joint borrower to stop paying the mortgage. It appears that the arrears started to accrue from April 2021.

I've seen letters sent to Miss H from Santander letting her know that the mortgage is in arrears and that payments need to be made. Santander have both her address and the other joint borrower's address on file and in this situation, we would expect Santander to write to both parties. I appreciate that Miss H feels that she is the only one being chased to bring the account up to date, but this normally wouldn't be the case. As I've already mentioned, she is jointly and severally liable for the mortgage even though she doesn't live in the property.

I do appreciate she doesn't want to be financially tied to the other party and would like the property to be repossessed, but it's not that straight forward. Repossession would be a last resort due to the significant legal costs that are involved – which are passed back to the borrowers.

Miss H asked Santander to take possession of the property in May 2021, but Santander explained their stance on this – that it would always be a last resort. And I don't think it was unreasonable of Santander to say this because the mortgage had only been in arrears since April 2021. I can see there was some discussion about Miss H being able to voluntarily surrender the property, but this can only be accepted by Santander when both parties agree – I'm afraid that Miss H cannot do this without the other party.

Santander has since confirmed they are considering litigation as the mortgage account is still in arrears and as I've already mentioned, this will add costs to the mortgage which both borrowers will be liable for. If Santander does go down this route, it should be a last resort and I would expect them to treat both borrowers fairly and keep them both updated with the situation.

I do think that Santander could have dealt with things better surrounding the payment deferral and the product switch, so I do think that £300 offered is fair and reasonable. I do understand that Miss H would like more in terms of compensation because of the stress this has put her under, but I think under the circumstances, this is fair. I say that because although I believe Santander could have done more checks before agreeing to the payment holiday, they were not unreasonable in agreeing it because of the guidance they were following which was set by the regulator. And the product transfer should never have been accepted, but Santander did reverse this when they were told about it – so there was no change to the mortgage.

I understand that Miss H feels that Santander have encouraged the other borrower to stop paying the mortgage, but I don't agree with this. There is nothing to confirm that the other borrower would or wouldn't have continued to pay the mortgage and like I've said, I'm not going to comment on the actions that they may or may not have taken as they are not party to this complaint. I know Miss H has concerns about all of this affecting her credit file, but as the mortgage is in arrears and she is jointly responsible for this, Santander have not done anything wrong in reporting this to the credit reference agencies. So while I understand this is causing her a great deal of stress, I'm satisfied that the actions that Santander have taken with regard to this, are acceptable.

I appreciate that Miss H will be disappointed with my decision, but I won't be asking Santander to do anything further.

### **My final decision**

For the reasons given above, I direct Santander UK Plc to pay Miss H £300 for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept

or reject my decision before 19 May 2022.

Maria Drury  
**Ombudsman**