

The complaint

Mr F2 has complained on behalf of Mr F1 about how Santander UK Plc (“Santander”) handled arrears on Mr F1’s mortgage account.

What happened

Mr F2 says Mr F1 has health concerns and lost his job, so he was unable to pay his mortgage. As part of Mr F1’s health concerns he was unable to deal with correspondence such as letters, but Mr F2 says Santander was threatening Mr F1 with the repossession of his property from 2018 onwards. Mr F2 and social services’ adult mental health team were all trying to discuss a resolution with Santander, but Mr F2 feels Santander made it very difficult.

Mr F2 says he made payments himself to avoid the threat of eviction. He says he understood if he paid an agreed amount then Santander would stop legal action. But Mr F2 says Santander continued legal proceedings anyway. Mr F2 has since paid off all the arrears on the mortgage, and says he was overpaying on a monthly basis because Santander didn’t send him a redemption statement even though it agreed to several times. Mr F2 has now settled the account.

Santander looked into Mr F2’s complaints and issued two final response letters. The first dated 28 January 2022 looked into whether Mr F2 was told legal action would stop or not. It found that Mr F2 was told Mr F1 would be given breathing space, but it felt the meaning of this may have been misunderstood. Santander said it was appropriate to start legal proceedings based on the account history at the time, but as the call handler Mr F2 spoke to could have been clearer about what they meant by ‘breathing space’ it agreed to refund the legal fees Mr F1 was charged totalling £130. Santander also offered an additional £120 compensation. Both sums were credited to Mr F1’s mortgage account.

The second response dated 17 March 2022 looked into Mr F2’s concerns about not receiving a redemption statement. Santander found that the first copy was sent to an incorrect email address. It said the email was encrypted so there was no data breach, but it offered Mr F1 another £100 to say sorry for this, which was again credited to the mortgage account.

As the responses didn’t cover all of the complaint points Mr F2 raised with this service, in particular, how it handled Mr F1’s account considering he was a vulnerable customer, our investigator asked Santander if it was happy for us to look into the additional points. Santander confirmed it was but said that it didn’t think it had done anything wrong in this regard.

Our investigator looked into Mr F2’s concerns and they felt Santander had done everything expected of it for the most part, but they found Mr F2 had legitimate concerns about whether his personal information was truly protected by the encrypted email or not. So, the investigator suggested Santander explain what encryption means to reassure him and they also awarded an additional £100 for the delay.

Santander accepted the investigators suggested settlement, but Mr F2 said their view wasn't an accurate reflection of what happened, so the complaint was referred to me for a decision.

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 agree with our investigator that the complaint should be partially upheld.

Before I explain my findings I note that Mr F2 has asked that I listen to a number of call recordings before deciding the case. Our investigator explained that they didn't think it was necessary to listen to the calls as Santander provided its contact notes that recorded the nature of all of the calls that took place. They felt it would be unreasonable for this service to listen to all of the calls that took place between 2018 and 2022.

I've also thought about Mr F2's request, and I agree with our investigator that it won't be necessary to listen to all of the calls. This is a fairly straight forward complaint, and both sides have made their points clearly. Santander has already accepted that the way the call handler explained things could have caused confusion in relation to legal proceedings, so I'm satisfied I don't need to listen to that myself. And I think I have enough information from both parties to decide Mr F2's other complaint points without listening to all of the calls that took place.

It's worth mentioning at this point that the ombudsman service is an informal and impartial dispute resolution service. While I've read and considered the whole file, I'll only comment on what I think is relevant to this complaint and necessary to explain my findings. This also helps to protect Mr F1 and Mr F2's anonymity as final decisions are published on our website.

Finally, before I explain my findings further, I also want to acknowledge that Mr F1 and Mr F2 have faced some extremely difficult circumstances over the last few years and I appreciate trying to resolve the issue of the arrears will have added to that. While I empathise with both Mr F1 and Mr F2, I also have to bear in mind that Santander still has to follow its own processes for settling arrears and although it can make reasonable adjustments it will ultimately need to find a way forward to protect its security in the property, particularly considering the length of time Mr F1 had been in arrears.

Legal proceedings

Santander informed Mr F2 it intended to start legal proceedings in October 2021. Given Mr F1 had been in arrears since 2018, I'm satisfied Santander would have been within its rights to do this. So, my findings will focus on whether Santander misled Mr F2 into believing it wouldn't start proceedings.

Mr F2 says each time he made a payment he was led to believe this would stop legal proceedings, but Santander continued anyway. I haven't seen anything to support this occurred on more than one occasion. It appears Mr F2 spoke to Santander on 12 November 2021 following receipt of the above letter and arranged to make the monthly mortgage repayments by standing order. But Santander also said that an income and expenditure form would need to be completed in order for the arrears to be repaid. I can't see that this was ever completed, so Santander referred the account to its solicitors on 1st December 2021.

So, I think the main instance of Mr F2 feeling misled was addressed and upheld by Santander already. Santander accepted that Mr F2 may have got the wrong impression that legal proceedings would stop based on the wording used by the call handler he spoke to on 12 November 2021. It said that the call handler confirmed legal proceedings hadn't started, which was accurate, but the call handler also said that Mr F1 would be given 'breathing space'. Santander accepts that this phrase may have misled Mr F2 into believing the account would not be referred to solicitors and apologised for causing this misunderstanding. To resolve this, Santander refunded the cost of the legal proceedings and awarded an additional sum for the distress and inconvenience caused.

I've thought about this carefully, and I think the misunderstanding was the result of the call handler trying to be empathetic to the situation – by using terminology that they hoped would give Mr F2 some relief. Unfortunately, it wasn't an accurate reflection of the situation and so it was appropriate to compensate for that.

Santander has paid £250 in total. This includes a refund of the legitimate legal fees charged to Mr F1's mortgage account, and an additional £120 to make up the difference. I think this is in line, if not slightly higher, with what I would have awarded in the circumstances. I say this because the award is to reflect the distress and inconvenience caused in relation to this specific event only. It's also awarded to reflect the impact on Santander's customer, Mr F1. I can't award distress and inconvenience to Mr F1's representative, and as Mr F2 was the one speaking to Santander, I think the impact on Mr F1 was reduced.

Redemption statement

Mr F2 says that he repeatedly asked for a redemption statement but didn't receive one for several weeks. I can see a record of Mr F2 discussing settling the arrears on 22 December 2021. While the notes don't specify Mr F2 asked for a copy of a redemption statement specifically, I'm satisfied this was at least implied based on their notes which document his desire to settle the account. Particularly considering Mr F1 confirmed he had the funds to settle the account due to the inheritance received from his late parents. But I note the records don't confirm Mr F2 asked for a redemption statement until 6 January 2022.

Following this, I can't see that Santander requested a redemption statement until 21 February 2022, so it wasn't produced until 23 February 2021. Considering this, I'm satisfied Mr F2's concerns about the delays in producing the statements are valid. And Santander has accepted that the original copy was sent to the wrong email address, delaying things further. A copy of the redemption statement wasn't actually sent to Mr F2's correct email address until 15 March 2022.

In terms of the wrong email address, Santander has explained that the email was encrypted and couldn't have been opened if it was received by a third-party. But it awarded £100 for any distress and inconvenience caused. Our investigator felt Santander should explain to Mr F2 how its encryption works to provide further reassurance to him that his and Mr F1's data was safe. And I agree it would be appropriate to do this in the circumstances.

The investigator also recommended Santander increase its award for the distress and inconvenience caused by delays and pay an additional £100. Santander has agreed to arrange both.

I've thought about this carefully, and I agree with Mr F2 that Santander didn't produce a redemption statement as quickly as it should have, and I appreciate he would have concerns about the statement being sent to the wrong email address too. That said, as I've explained above, Mr F2 is not Santander's customer in regards to this complaint, so I can only think about whether Mr F1 has been compensated fairly or not.

Considering everything, I think £200 for the distress and inconvenience caused is appropriate for Mr F1, again, bearing in mind Mr F2 was the one who had to chase Santander for the statement, and I can't award compensation to him.

Other difficulties assisting Mr F1

Mr F2 has complained that Santander made it difficult for both he and social services to assist Mr F1 with his account. I don't intend to provide a timeline of each and every contact either party had with Santander, but I've reviewed all of the contact notes provided by Santander alongside Mr F2's testimony of what happened and I'm satisfied Santander treated Mr F1 fairly and attempted to help him with his situation.

I understand handling this situation will more likely than not have been very stressful for Mr F2, but a number of the issues he appears to have had with Santander's handling of the account were unavoidable. Santander has a duty to protect Mr F1's account and it would need the appropriate documentation in order to communicate with Mr F2 or social services. Once this was in place for Mr F2, I can see Santander contacted him about the account instead of Mr F1 until the authority expired.

Santander repeatedly explained that an income and expenditure form would be required in order for it to set up an arrangement. It appears Mr F2 disagreed with this process, but this is common practice and any other lender would likely have had the same requirements.

Santander would have been within its rights to start legal proceedings on Mr F1's account much sooner than it did, so I think it delayed things to give Mr F1, Mr F2 and social services a chance to get an acceptable repayment plan in place.

Considering everything, I don't think Santander made it difficult for Mr F2 or social services to assist Mr F1 with his account. But I do think Santander could have been clearer about its next steps in terms of legal proceedings. I also think Santander should have sent a copy of the redemption statement to Mr F2 sooner than it did. But Santander has agreed to pay £450 compensation to Mr F1 in total and for the reasons I've explained above, I think that's fair and reasonable in the circumstances of this complaint.

Below, I've set out the remaining actions Santander should take if Mr F2 accepts the decision.

Putting things right

Santander UK Plc should:

- Explain how its encryption process would prevent a third party from accessing the redemption statement it sent to an incorrect email address.
- Pay an additional £100 to Mr F1 for issues relating to the mortgage redemption statement.

My final decision

For the reasons I've given, my final decision is that I uphold this complaint and direct Santander UK Plc to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F2 to accept or reject my decision on behalf of Mr F1 before 2 March 2023.

Hanna Johnson
Ombudsman