

The complaint

Mr W is unhappy Santander UK Plc (“Santander”) didn’t apply a new interest rate to his buy-to-let mortgage.

What happened

Mr W held a fixed rate mortgage with Santander, which was due to end on 3 August 2022. Mr W got in touch with Santander on 20 July 2022 to discuss his options. He later received a mortgage offer dated 22 July 2022. The offer was for a five-year fixed rate at 3.59% with no fee, valid until 3 August 2022.

Mr W spoke to Santander on 1 and 2 August 2022 to discuss this further. Following this, Mr W says he understood his new rate was in place until he received a letter in early September which confirmed the Bank of England base rate had increased, so his standard variable rate was going up to 5%. Mr W says he should have been on the new rate and so he would like Santander to backdate his interest to the rate he was offered on 22 July 2022.

Santander reviewed Mr W’s concerns and issued a final response letter on 26 September 2022. It said Mr W didn’t accept the rate change offer before it expired and directed to him call and arrange a new offer.

Mr W remained unhappy, so he referred his complaint to this service. Our investigator looked into his concerns, but they weren’t satisfied Mr W had correctly accepted the offer via the link he was sent by email. As Mr W disagreed, the complaint was passed to me to decide. I issued a provisional decision on 22 March 2022 and set out why I thought the complaint should be upheld. Below is an extract of what I said:

“Mr W received his offer by email on 22 July 2022. The email invited him to accept the offer via a link. As Mr W still hadn’t accepted it by 29 July 2022, he was sent another email with another link to accept the offer. So, I think Mr W understood he could accept the offer this way, but it appears he hadn’t fully made his mind up as he phoned Santander to ask for more information on 1 August 2022.”

During this call, Mr W asked Santander if it could clarify what rates were available to him. He was informed of four rates he could apply for. There were two-year fixed rates available at 3.54% without a fee, or 3.39% with a fee of £1,499. And five-year fixed rates available at 3.59% with no fee, or 3.44% with a fee of £1,499. During the same call, Mr W was reminded his rate was coming to an end the next day and if he didn't accept the offer on time, his mortgage would switch to a standard variable rate. Mr W acknowledged this and said he would call back with a decision the next day.

So, Mr W hadn't accepted the offer he received in July at this point. But he had applied for that offer well in advance of his existing product expiring, and it's clear his intention was to move onto a new fixed rate before his rate changed onto a standard variable rate. Mr W made it clear he intended to call back with his decision the next day and he wasn't told not to, or that if he wanted to accept the offer he had, he should do this via the link that was sent to him. So, I think Mr W was left with the understanding he could call back the next day to confirm his acceptance of the rate he decided on.

Mr W called Santander back the next day, on 2 August 2022 as he said he would. Santander initially only provided the second part of the call, so our investigator asked for the first part. I note Santander said the content wasn't relevant to the outcome of this complaint. But as the investigator asked for it again it was eventually provided. And having listened to both recordings, I think they explain the confusion caused and it's because of this I think the complaint should be upheld.

At the start of the call, Mr W said he needed a little bit more information. He said he'd received an offer and confirmed the details of each of the products he was told about in the call he had the day before. He asked the call handler to reconfirm that there was no fee on the five-year fixed rate of 3.59%. He then enquired about the five-year fixed rate with a fee, and after hearing the monthly cost of each again, he decided he was better off with the one with no fee. He asked if he could go for the five-year fixed rate at 3.59% with no fee. The call handler said that was fine and asked whether he'd previously spoken to Santander. Mr W confirmed he had an offer that was due to expire at midnight. The call handler confirmed he just wanted to accept that offer. Mr W said 'yes'.

So, I think it's clear from this Mr W hadn't yet accepted the offer but now wanted to accept it on the call. And I'm satisfied the call handler understood this was his intention too.

The call handler discussed the details of the product he wanted to accept again, and Mr W was asked to write a four-digit code down. The call handler then said she would transfer him through. I heard the internal discussion the call handler had with a colleague, the second call handler, while Mr W remained on hold. During this discussion, the second call handler confirmed Mr W had already booked a rate. The initial call handler said Mr W wanted a new one. The second call handler said he'd already got the offer he just needs to accept it via the link in the email he was sent and mentioned that the rates were going up. So, the initial call handler said she would let Mr W know.

The initial call handler then went back to the call with Mr W and asked him if he'd accepted the rate. Mr W confirmed he had. The call handler said that was fine and confirmed the new rate would take effect from tomorrow.

Based on this conversation, I think it's more likely than not Mr W thought he was confirming his acceptance of the rate when the call handler reconnected with him. The call handler already knew Mr W hadn't accepted the rate himself and that she was the recipient of his acceptance – he understood she was putting him on hold to arrange this. The call handler didn't mention anything to Mr W about him having to accept the offer via an email link or any other method. So, I don't think she did enough to ensure Mr W had actually accepted the offer, before she confirmed the new rate would start the next day. Considering everything, I think it was reasonable for Mr W to think his acceptance had been recorded as part of the call and the new rate would start the next day as Santander told him it would.

I understand Mr W has since told this service he accepted the offer via the email link. But he also said he didn't recall completing an e-signature and he doesn't have a confirmation email of the changes. While Mr W's recent explanation varies from what I've said above, I think the reason Mr W doesn't recall what he had to do is because this wasn't how he remembered accepting the decision. Santander has provided it's contact notes that recorded Mr W's initial complaint. These notes confirm Mr W initially complained that he thought he'd accepted the offer during a phone call. I think this version is consistent with the recordings I've listened to, and I'm satisfied Mr W more likely than not thought he'd accepted the new rate during his call with Santander on 2 August 2022.

Mr W received a letter shortly afterwards that alerted him he was actually on a standard variable rate, and he contacted Santander promptly to advise it something had gone wrong. I think Santander could have established there had been a misunderstanding during the call on 2 August 2022 and at this point, they could have adjusted his account and put things right fairly easily. As this didn't happen, Mr W remained on the standard variable for a few months, and I understand he's now started the process of applying for a new fixed rate to mitigate his losses. I think this will have caused him some stress and inconvenience, so I think Santander should compensate him with £150 for that, as well as putting him back in the position he would have been in if the error hadn't occurred."

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.

Mr W accepted my provisional decision, but Santander did not.

Santander explained the email Mr W was sent clearly said what he needed to do to accept the offer. Santander said this was also clearly explained to him during the initial phone call that took place on 20 July 2022. Santander says Mr W confirmed he had accepted the offer already during the phone call on 3 August 2022, knowing he hadn't, and that Mr W was therefore responsible for the confusion caused. Santander says it never gave Mr W reason to believe he could accept the rate by telephone, so it's not responsible if Mr W didn't accept the rate online.

I've thought about what Santander's said carefully, but I don't agree. While Mr W may have been told to accept the offer online during his initial call with Santander on 20 July 2022, and I agree he was sent an email link to do that, I don't think that mitigates what happened afterwards.

Mr W made it clear when he spoke to Santander on 1 August 2022 that he intended to call back the next day with his decision – to confirm which product he was going to accept. At no point was Mr W told it wasn't possible for him to confirm his acceptance this way, even though it was clear that was his intention. And the email doesn't say email is the *only* way Mr W could accept the offer. So, I don't think it's unreasonable Mr W thought he would be able to complete his acceptance over the phone as well as online.

Mr W then called back the next day on 2 August 2022, as he said he would. Mr W decided what rate he was going to take and specifically explained that he already had an offer that was due to expire at midnight. The call handler acknowledged this and asked Mr W if he just wanted to accept the offer. Mr W confirmed he did. Again, at no point did the call handler say it wasn't possible to accept over the phone, or direct Mr W back to the email he'd received. Given this, I don't think Mr W had any reason to believe he couldn't also accept the offer over the phone.

The call handler then put Mr W on hold, and based on what was said, I think it's reasonable Mr W thought the call handler was arranging for the offer to be implemented at this time. The call handler then had an internal conversation with a colleague. Mr W wasn't party to this discussion so he didn't hear the colleague's suggestion that he should proceed by email. The colleague was direct, and it came across as though the original call handler became confused and seemed to have forgotten what was discussed with Mr W to some extent.

When the call handler re-joined the call with Mr W, they asked him if he'd accepted the offer. As I explained in my provisional decision, the call handler was fully aware Mr W hadn't accepted the offer yet – this had been discussed in detail. So, I don't think it's surprising Mr W interpreted the call handler's question to mean she was confirming he was happy to accept the rate, rather than meaning he had accepted it online already. Without doing any further checks the call handler confirmed the rate would start the next day and left Mr W with the impression everything was in place.

So, I've considered Santander's response, but I had already considered the points its raised before issuing my provisional decision and having considered them again, I still think Mr W more likely than not understood that he had accepted the new rate during his call on 2 August 2022. And, if he was unable to accept the offer this way, the call handlers on both 1 and 2 August 2022 should have made this absolutely clear to him. But I don't think they did, so I think Santander should put things rights as I've set out below.

Putting things right

Santander UK Plc should:

- Adjust Mr W's account to show that he accepted his offer for a five-year fixed rate product with a rate of 3.59% and no fee on 2 August 2022, to start the next day.
- Calculate how much Mr W has overpaid to his mortgage from the date he moved onto a standard variable rate on 3 August 2022, to the date of settlement.
- Ask Mr W whether he wants any overpayments to remain on the account and reduce his contractual monthly payments going forward, or if he would like those funds returned to him.
- Provide up to date account information to Mr W, including the outstanding balance on the account, and the cost of his contractual monthly payments going forward after the above adjustments have been made.
- Pay Mr W £150 for the stress and inconvenience caused to him since he found out the rate hadn't been applied to his account.

My final decision

For the reasons explained above, I uphold Mr W's complaint and direct Santander to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 17 May 2023.

Hanna Johnson
Ombudsman