

## **The complaint**

Mr S complains about advice on porting his mortgage that he told us he'd received from Santander UK Plc. He said Santander wrongly told him he could port his mortgage to a property that his partner already owned, and he relied on that in selling his home.

## **What happened**

Mr S said he bought his property in November 2021, with a mortgage from Santander. His mortgage was at 2.24% interest, fixed until early 2027. An early repayment charge ("ERC") was payable until then, but his mortgage could be ported to a new property.

Mr S said he decided to move in with his partner, who also owned her own home. He said Santander told him he could avoid paying the ERC if he ported his mortgage to a new property within three months of selling his old home. So Mr S said he and his partner decided to port his mortgage onto their next, jointly owned home.

Mr S said they'd initially planned to sell his property, port the mortgage onto a new property which he would buy, then sell his partner's property once they had somewhere else to go. But Mr S said the increasing cost of living meant they rethought this. They decided it was safest just to sell one of their properties, and live in the other.

Mr S said he contacted Santander by phone on 12 October, to ask if he could port his mortgage on to his partner's property. They wanted to keep the better interest rate from his mortgage, and avoid paying the ERC on that mortgage too. Mr S said Santander told him this would be no problem at all. And he said if Santander hadn't confirmed this was possible, he and his partner would have pulled out of the sale of his property, sold hers instead, and then both lived together in his old property.

Mr S said he then sold his property, and shortly after this, contacted Santander to find out how to move his mortgage onto his partner's property. He said Santander then told him this wasn't possible after all.

Mr S said Santander had accepted it was responsible for giving him wrong advice, but it wouldn't repay the ERC that he had been expecting to recover, or cover the difference between his old mortgage, at 2.24%, and the mortgage he and his partner could get now. Santander had only offered him £150.

Santander said it had made a mistake here. It had listened to the call recording from 12 October 2022, and at the end of the call, Mr S said his partner's property wasn't yet sold, could Santander allow him to take over the mortgage in joint ownership with his partner. Santander said its agent told Mr S the property would have to be in joint ownership. But Santander said the agent should have asked more questions, as it couldn't do what the agent had discussed. Santander said it had provided feedback to the agent, and it paid Mr S £75 in compensation (which it later offered to increase to £150.)

But our investigator didn't think this complaint should be upheld. He said he had also listened to the calls Mr S had with Santander, and he'd reached a different conclusion. He didn't think Santander had made a mistake during any of the calls he'd listened to. He said Santander answered Mr S's questions in a clear and non-misleading way. He didn't think Santander acted unfairly or unreasonably by not asking Mr S for more information about his plans. So our investigator said he wouldn't ask Santander to do anything.

Mr S didn't agree. He said he couldn't understand why our service didn't think Santander had made a mistake, when it had admitted it was to blame. Because no agreement was reached, this case came to me for a final 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.

I'm sorry to tell Mr S that I've reached the same overall conclusion on this complaint as our investigator. So his complaint won't be upheld.

Before I explain why I've reached that conclusion, I'd like to acknowledge that Mr S may well be both disappointed and surprised that his complaint hasn't been upheld by our service. He told our investigator that he couldn't understand the conclusion reached at that stage, as Santander had already admitted it was at fault. But our service isn't bound to accept here that the bank is at fault, even if it's said it thinks it is. Rather, our service is impartial, so we must review the complaint ourselves and reach our own independent view on a complaint.

In reaching a final decision on this case, I have to determine this complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. And I don't think it would be fair and reasonable to find against Santander, where I don't think it's made a mistake. That's still the case, even if Santander thinks it did make a mistake.

Here, I've listened to the three calls that Santander has been able to share with our service, including the one where Santander has accepted it was at fault.

On the first call, Mr S rang to get his account number. Santander confirmed the redemption amount, and the ERC. Mr S was aware that there was an ERC, but he said the total redemption cost was more than he was expecting. Santander said it would send him an electronic copy of this information within the hour.

On the second call, Mr S rang on 12 October, and said his property sale was due to go through on Friday. He called to ask advice on his upcoming change of employment, and whether this might affect a future mortgage application.

The third call was also on 12 October. Mr S was seeking advice about his future options, and he asked questions about how his porting application would work. He asked whether his partner could be added to the mortgage, for any future purchase. Santander confirmed that this was possible, subject to an affordability assessment. Mr S then asked how much of the new mortgage would be on the old interest rate, and Santander confirmed he'd only keep the old rate for the amount of his old mortgage. Any extra borrowing would be on a new rate.

Finally, on this call, Mr S said his partner's property wasn't sold yet, but his was, and he asked –

*“...can I, if the affordability was there, to put it all into my name, but be under joint ownership”.*

Santander's agent replies

*“...if it was going to be in joint ownership they would have to be named on the mortgage”.*

Crucially, I don't think Mr S was clear on the call that he was no longer asking about buying a new property. So he wasn't asking Santander whether he could have a mortgage for a newly purchased home solely in his name but own it jointly with his partner. What Mr S was apparently thinking about was remortgaging his partner's property, putting that mortgage entirely in his name, whilst owning that property jointly with her. I don't think it's reasonable to have expected Santander's agent to have realised this, from what Mr S said at the time.

I think Santander answered the question it had understood was put to it. And I think its response, to what Mr S actually said, was a reasonable one. And that's why, although I understand that Santander has accepted it made a mistake here, I don't think it did misadvise Mr S, based on the question he asked at the time.

I also note that Mr S said he was advised he could port his mortgage to his partner's pre-existing property before he decided to go ahead with the sale of his property. But on the call I can hear, Mr S started by saying that his sale was happening that week. And Mr S has shown us that he was tied into this sale from 12 October, which is the same date as the key call recording Santander sent us. So even if I had thought Mr S had been misadvised (which I don't) I still wouldn't have thought it was likely that Mr S only went ahead with the sale because of this.

Mr S has told us he had other calls with Santander, but Santander couldn't find any additional call recordings, other than the three I've noted above. I don't think it's likely that there was a separate discussion on this issue, which our service doesn't have access to. That's because I don't think it's consistent with the call recording I've listened to for Mr S to say he'd previously received advice on whether he could port his mortgage onto a property his partner already owned. And I also note that Mr S has told us the mistake was made at the end of the final call on 12 October.

I understand Santander has already paid Mr S £75 for this complaint, and may have offered a further £75. I leave it to Santander to decide whether to pay Mr S that additional amount, if it hasn't already done so.

I know that Mr S will be disappointed, but for all the reasons I've set out above, I don't think this complaint should be upheld.

**My final decision**

I don't uphold this complaint.

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

Esther Absalom-Gough  
**Ombudsman**