

The complaint

Mr Y complains that Santander UK Plc has treated him unfairly when providing conflicting information about his late mother's mortgage.

What happened

The background to this complaint is well known to both Mr Y and Santander, so I've not set this out in detail below, instead I've focused on the key points.

Mr Y has another complaint about a number of linked issues with Santander and it's handling of his late mother's mortgage, but this complaint is focused on advice given around and early repayment charge (ERC) and whether this needs to be paid when the mortgage is redeemed.

In February 2022, Mr Y was told when speaking with Santander, that it was likely an ERC would be applied if it took more than 12 months to sell the property after his late mother passed away.

Mr Y said this caused concern as he didn't think an ERC was applicable based on his understanding of the mortgage terms. He hadn't factored the sum of this into the financial calculations and he was worried about the considerable amount Santander said this was likely to be – up to £105,349.

Santander first looked at Mr Y's concerns in March 2022 and said it had correctly informed him that an ERC would be applicable if the property was not sold within 12 months. But it said it would consider if this could be waived should the property not be sold by this point. Santander apologised for the distress caused when the telephone agent wasn't able to answer this question with certainty at the time and it offered to make a payment of £50 to compensate for this.

Mr Y continued to question whether the ERC should apply and Santander looked at this again. In July 2022, it explained it had made a mistake and the ERC wouldn't be applicable. It apologised for this in its final response dated 22 July 2022 and offered to pay Mr Y £250 for the distress caused when it initially gave incorrect advice.

Our investigator looked at Mr Y's complaint and agreed Santander had made a mistake. He didn't think its offer to compensate for the distress and inconvenience was fair and he asked Santander to increase this to £300. Santander accepted this and increased its offer to the amount recommended.

Mr Y didn't accept the outcome. He didn't think the compensation took account of the complaint as a whole when looking at the delays in information being provided, the negligence of the staff and distress caused as a result.

Our investigator asked Santander if it would consider increasing the amount offered for the distress and inconvenience and it increased this by a further £50 to £350 in total.

Mr Y didn't accept this increased offer. He explained Santander had added a number of delays to the process of obtaining the information he needed to move forward with the probate on his late mother's estate. He feels this could have stopped the property selling sooner and the delay has resulted in Santander continuing to benefit from the daily interest adding to the mortgage balance. So it is profiting while he has lost out.

Our investigator said their opinion hadn't changed. They felt the offer of £350 for the distress and inconvenience caused was fair. He didn't think there was anything that evidenced a financial loss as a result of the misinformation relating to the ERC, so he didn't think it was right to make a recommendation in relation to this.

Because Mr Y disagreed with our investigator, the complaint has been passed to me for 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 upholding this complaint for much the same reasons as our investigator. I know this isn't the outcome Mr Y is hoping for, but I'll explain why I've decided this.

It isn't disputed that Santander has made a number of errors when handling Mr Y's questions about his late mother's estate and the actions and information he needed from Santander. Some of these actions are being considered under a separate complaint and I think it's important that I highlight, the focus of this complaint is the service received in relation to the ERC and the information on this.

It is clear Mr Y has had a difficult time with Santander and I'm sorry he's had to deal with these issues. This has compounded what is understandably a difficult time and made dealing with the probate of his late mother's estate more difficult than it might have been.

When Santander incorrectly informed Mr Y that an ERC was going to be applied, I think it added undue distress. Mr Y would have been concerned the figures he had for the value of the estate would have been wrong and the potential ERC was significant. So I think it's fair to say that Santander's actions would have had a negative impact on him and it's right it makes a payment to compensate him for this.

Mr Y has highlighted that the amount Santander is earning from the mortgage as the balance remains outstanding is considerable. So while the house is not sold, he feels it continues to benefit from this and he is losing out as a result. He has questioned whether having the correct information sooner would have allowed him to market the property sooner. He feels this has potentially caused him to lose out as a result of the delay and it would be fair to ask Santander to do more with the compensation.

I understand the concern Mr Y has on this point, but I don't think it would be fair to say Santander's actions have caused a delay which has resulted in the house still being unsold. To say this, I'd need to be convinced that it was more likely than not that Santander's actions have resulted in the property not being sold sooner.

There is no guarantee when marketing properties that they will sell in a certain period of time and even if Mr Y was able to market the property sooner, there is no way of knowing whether a buyer would have been found. With this in mind, it wouldn't be fair to say there is a definite link between the information provided by Santander about the ERC and the property not having sold already. The interest is being charged inline with the mortgage offer

and I don't think Santander has done anything wrong when it has continued to charge this.

Overall, I think the amount now offered for the distress and inconvenience caused by Santander when it gave incorrect information about the ERC is fair and inline with what I'd expect it to pay to compensate for this.

Putting things right

Santander should pay Mr Y £350 for the distress and inconvenience caused when providing wrong information about the ERC on his late mother's mortgage.

My final decision

For the reasons I've explained above, I'm upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 8 June 2023.

Thomas Brissenden
Ombudsman