

## **The complaint**

Mr and Mrs S complain that Santander UK Plc wouldn't offer them a new interest rate in 2016 because they'd been in arrears. They say they were led to believe they'd never be able to get a new interest rate. Mr and Mrs S have recently obtained a new fixed rate mortgage with Santander and are unhappy that they could've done so sooner. They are seeking compensation for this.

## **What happened**

Mr and Mrs S took a mortgage with Santander in 2008. In 2016 Mr and Mrs S asked for a new fixed rate but were told they couldn't have one due to having recently had arrears on their mortgage. Mr and Mrs S complained but Santander didn't issue a formal response. Mr and Mrs S continued paying Santander's standard variable rate (SVR).

In early 2023 Mr and Mrs S contacted Santander and successfully applied for a new five-year fixed rate mortgage. They complained that they'd been led to believe in 2016 that they'd never be able to obtain a new rate on their mortgage because of the historic arrears and, had they been aware this wasn't correct, they'd have applied for a new lower rate sooner.

Santander didn't uphold the complaint, so Mr and Mrs S referred it to us. One of our Investigators looked into the complaint. But he didn't think it should be upheld. He was satisfied that Santander was entitled to decline Mr and Mrs S' request for a new rate in 2016 due to previous arrears. And he didn't think Santander had led Mr and Mrs S to believe that they would never be able to obtain a new rate on their mortgage.

Mr and Mrs S didn't accept this. They said they may not have categorically been told that they would never be able to get a new interest rate. But they were certainly discouraged from doing so. They also said that had their complaint been treated correctly in 2016 and they'd been referred to our Service, they have been informed that they could've taken a new mortgage product sooner.

Mr and Mrs S asked for the complaint to be passed to an Ombudsman, so it's now with me to consider and make 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.

In cases such as this, where what's happened is in dispute, or evidence is incomplete, I have to make my decision on the balance of probabilities. That is, what I think most likely happened given the information and evidence I do have.

Mr and Mrs S say they were discouraged from applying for a new mortgage rate again when they complained in 2016. Due to the passage of time, we don't have a recording of this call. But we do have a note of the discussion with Mr S. And I have placed weight on this

evidence as the call note was made at the time of the complaint.

The call note says:

*I have apologised to the customer and explained due to the arrears on his mortgage in the past 12 months we are able to offer him anything but SVR. I have transferred through to mortgage centre to discuss past arrears as he requested. I have explained I will log his dissatisfaction and if he feels he wants to take further he can ultimately bring to FOS.*

A further note says:

*I have apologised to the customer and explained due the arrears on his mortgage in the past 12 months we are unable to offer him anything but the SVR*

It's clear to me from these note that Mr and Mrs S did complain about not being able to obtain a rate at this time. Lenders are generally entitled to decide who to offer new interest rates to. And one of the criteria that Santander used at the time was historic arrears. I'm satisfied it was entitled to make this decision and wasn't required to offer Mr and Mrs S a new interest rate at this time.

However, the crux of this complaint is what Mr and Mrs S were told which meant they ended up paying Santander's SVR until 2023.

Obviously, I can't know exactly what was said. But the above call note does suggest that Mr and Mrs S were told that it was due to having arrears within the past 12 months that had meant they weren't eligible for a new interest rate. Whilst Santander may not have specifically told them that they may qualify for a new rate after 12 months of not having arrears, I think they likely could've inferred this from the discussion with the call centre noted above.

I'd also note that Santander's policy at the time was that borrowers needed to have no mortgage arrears within the last 12 months. So, I see no reason why Santander would've given Mr and Mrs S information suggesting they'd never be able to obtain a new interest rate or discourage them from taking one. Ultimately, it's in a lenders interest for borrowers to take new rates as this commits them to the lender for the longer term.

Based on what I've said above, I can't safely say that Santander actively discouraged Mr and Mrs S from ever applying for a new mortgage interest rate. Furthermore, if Mr and Mrs S were concerned about the level of the SVR they were paying, they could've looked at other options such as remortgaging to another lender.

I've also noted that each annual mortgage statement encourages them to get in touch with Santander if they wish to review their mortgage rate or product. So, I think they were given sufficient reminders that Santander may be able to offer them a new rate. Even if they had been told it was unlikely, they could've confirmed this with a call much earlier than they did. And given there were no arrears within 12 months by December 2016, it's entirely possible they could've obtained a new interest rate.

Mr and Mrs S have said that had Santander treated their complaint as a formal one in 2016, they would've ultimately contacted our Service and discovered that they were able to obtain a new interest rate. I've thought carefully about this point.

There's no doubt that Santander should've treated this as a formal complaint and explained to Mr and Mrs S that they could refer their complaint to our Service. But, at the time, the complaint was simply that they couldn't access a new interest rate at the time. As I've set out

above, this was a decision Santander was entitled to make and this would likely have been the outcome our Service would've reached at the time had it been referred to us. And this is the only point we would've addressed. We aren't able to provide advice, and I don't think that explaining to Mr and Mrs S that they may be able to get a new rate in the future would've necessarily been part of our investigation. And, in any event, as explained above, I'm satisfied Santander didn't likely lead Mr and Mrs S to believe this was the case anyway.

I understand why Mr and Mrs S are upset. They feel that they could've had a lower mortgage interest rate for several years and have paid more interest as a result. But I'm not persuaded on balance that Santander led them to believe they'd never be able to obtain a new mortgage rate. So, I'm not going to ask Santander to take any further action.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 18 March 2024.

Rob Deadman  
**Ombudsman**