DRN-4465701

The complaint

Mr and Mrs W complain that they were misled by an adviser from Santander UK Plc that affordability would not be an issue when they came to applying to port their mortgage, but Santander then refused their mortgage application because of affordability.

What happened

Mr and Mrs W have had an interest-only mortgage with Santander since 2006. They spoke to a Santander mortgage adviser in September 2022 about porting their mortgage product. They wanted to move house and downsize and pay off some debts Mr and Mrs W weren't earning the same money they earned back in 2006 and had a discussion about affordability with a Santander mortgage adviser. The adviser said that as they were making monthly payments on time that there wouldn't be a focus on affordability as long as the mortgage didn't increase.

In March 2023, Mr and Mrs W started their porting application but Santander declined the application saying that Mr and Mrs W didn't meet its affordability criteria because of unsecured loans that they had. Mr and Mrs W say that the point of downsizing is to pay off this debt. As a result, Mr and Mrs W had to change their plans about selling their house and moving. Santander accepted that it shouldn't have told Mr and Mrs W that it wouldn't focus on an affordability assessment and offered Mr and Mrs W compensation of £100.

Mr and Mrs W also complain that when they wanted to take out a second charge on the property they were told that they had to change their mortgage from a flexi-mortgage to a standard mortgage. Santander agreed that they had been given incorrect information and offered £100 in compensation.

Our investigator's view was that Santander had made errors in respect of Mr and Mrs W's applications but thought the compensation offered was fair. Mr and Mrs W disagreed and asked for a review.

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 and Mrs W wanted to downsize and because of the equity in their property hoped to be able to move and pay off their debts. They were concerned about affordability and so made initial enquiries from Santander by way of a phone call. The Santander adviser said that when the time came to look at the application, the bank would look at income and affordability but as Mr and Mrs W were paying their current mortgage, it shouldn't be a problem if they were going to pay less after downsizing. I listened to that call. My view of it was that it was a preliminary enquiry by Mr W where he was certainly given confidence by the adviser that he could look for another property and that affordability wouldn't likely be a problem.

The mortgage adviser was asked about affordability. Santander operates a Loyal Movers

Same or Less Scheme “LMSLS” which is meant to facilitate like for like porting. According to my reading of the scheme, affordability wouldn’t have been a problem if Mr and Mrs W’s application had met other eligibility criteria. One of these is that the loan to value ratio (“LTV”) on the new property is not higher than the LTV on the existing property. Mr and Mrs W’s existing LTV was 46.96% (based on Santander’s system valuation of £1,361,531.00 and a balance of £639,497.85). If they borrowed £625,000.00 on the new property, based on the new property’s value of £1,100,000.00 the LTV would be 56.81%. If the borrowing was reduced to £550,000.00 the LTV would still be higher at 50%.

Although Mr and Mrs W were borrowing less, the risk in terms of LTV to Santander was increasing and in those circumstances Santander’s policy was to require an affordability assessment. It is for Santander to decide what level of risk it wishes to take on a property and because the LTV had increased, the application fell outside its LMSLS policy. That meant that the application was considered as a new application needing an affordability assessment but they then failed the affordability test. I note that Mr and Mrs W were aware that this might happen if such a test was applied but were given to understand in the phone call that the test would not have applied. There is also the question as to whether it would have been in their best interests in any case to have taken out this mortgage if Mr and Mrs W were going to have problems paying the mortgage as suggested by the affordability assessment.

As I say above the issue of the LTV was not covered by the mortgage adviser in the phone call and it would have been better for Mr and Mrs W had it been. But I have to recognise that the adviser, in what was a preliminary call, couldn’t cover all the eligibility criteria. Part of the reason for not doing so is that eligibility criteria can change and may not be relevant at time of application. And the adviser is simply answering the questions posed by Mr W about affordability and not involved in a detailed advice process that would have been down the line and would have involved a long-structured interview.

I accept that the adviser wasn’t clear about that or what all the criteria were but I understand why, given the circumstances of this preliminary interview that might have been the case. I accept that the adviser conveyed an over optimistic impression of Mr and Mrs W’s prospects when they came to an application. That would have been disappointing for Mr and Mrs W and they should receive compensation for the failure to manage their expectations appropriately. But this wasn’t a mortgage application and no approval was being given and Mr and Mrs W would have been aware that they still had to make application. So, I believe that the compensation offered of £100 is fair.

Following this Mr and Mrs W wanted to borrow money by way of a second charge, but Santander said that they couldn’t do it on the existing mortgage as it was a Flexi-mortgage and required the mortgage to be transferred to a standard mortgage to allow them to do so. My understanding is that this is a legal issue that prevents a second charge on a Flexi-mortgage as it imperils the lender’s security and so the lender requires a standard mortgage to allow a second charge. So, I can understand why it would require it and can’t fairly say that Santander has done anything wrong by doing so. But I note that Mr and Mrs W got conflicting information about this, and I consider that the compensation offered by Santander to Mr and Mrs W for that of £100 is fair. I also note that they appear to have moved onto a marginally more favourable interest rate following the mortgage switch.

My final decision

Santander UK Plc has already made an offer to pay Mr and Mrs W £200 to settle this complaint and I think this offer is fair in all the circumstances. So, my decision is that

Santander UK Plc should pay Mr and Mrs W £200 (unless already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 29 March 2024.

Gerard McManus
Ombudsman