

The complaint

Mr S complains about how Santander UK Plc managed the mortgage on a Buy To Let property after he fell into arrears. He said Santander wouldn't offer him a lower interest rate, or take responsibility for the agents it appointed to manage and sell the property.

What happened

Mr S said that he'd unfortunately fallen behind on payments to his Buy to Let ("BTL") mortgage for a property I will call Property 2. He said when this happened, he asked Santander for a lower interest rate, but he said it turned him down each time he asked.

Mr S said he'd made Santander aware of his personal issues and mental health problems. In 2021, his health got worse, and he was unable to work, so the mortgage for Property 2 was again in arrears. But he said Santander didn't help. He decided to sell the property he was living in, Property 1, which was also mortgaged with Santander.

Mr S said around May 2022 he moved out of Property 1, and moved in with family. Mr S said he gave Santander his new address, and was told this had been updated. Mr S said he was receiving post at this new address, and his banking app showed this as his address for every account.

Mr S said in February 2023 he opened some post forwarded to him by the new owners of Property 1. He then found out that a company had written to tell him it was taking over the management of Property 2. Mr S said he spoke to this company, gave it his new address, and it said it would collect rent and pay Santander. Mr S said he thought this might help, so he let this go on for some months, but then realised the mortgage debt was just increasing.

Mr S said he rang Santander then, and it still had Property 1 as his home address. Mr S said he was told the tenant wasn't paying rent. He wanted to know why, and Santander said it would call him back, but never did.

Mr S said Santander later said that the address problem was his mistake, because he didn't complete a call with it, although the app and bank statements all had his new address.

Mr S said he was then told the tenant who had been living in Property 2 had left, and the property would be sold. Mr S was unhappy at the amount Property 2 was being sold for, he thought it was worth much more. And he said that Santander wasn't taking responsibility for the agents it had appointed. He also said that even after he'd told Santander it was using the wrong address for him, it kept sending statements to his old address.

Santander didn't think it had done anything wrong. It said it didn't offer discounted or fixed interest rates to customers in arrears. And it told our service that Mr S's mortgage for Property 2 has been in arrears for the majority of the time since 2017. Santander said that if Mr S had wanted to fix his mortgage interest rate when he wasn't in arrears, he would have needed to get in touch with it to do that.

Santander also said it had recorded Mr S's vulnerabilities, and shared information on Mr S's mental and physical health with the solicitors it had appointed. If Mr S had concerns about how the receivers had dealt with Property 2, then he should raise those directly with them.

Our investigator didn't think this complaint should be upheld. She said that our service can't consider the complaint points around the collection of rent and marketing of the property, as the actions of the receivers aren't something that falls within the scope of our service. She explained that although receivers are appointed by the lenders, they act on behalf of the borrower, as the borrower's agent. So the receivers were acting for Mr S, and that meant we can't look at what they'd done.

Our investigator said this was a BTL mortgage, which is essentially a business, so there's more onus on Mr S to manage the mortgage himself. She didn't think Santander had to proactively contact Mr S to offer him a new rate, and she thought the arrears on the account meant it wouldn't necessarily be in Mr S's interests to take out a new fixed rate product. She didn't think Santander had to offer a fixed or discounted rate when Mr S was in arrears.

Our investigator said Mr S did tell Santander he had moved in June 2022, but he didn't say where, or give Santander a new correspondence address. And she said Mr S had become aware of the appointment of the receivers not long after letters were sent to his old address about this. Mr S gave Santander his new address in June, and Santander did then action this itself and send the new address to the receivers too. So our investigator didn't think Santander had caused communication delays here.

Mr S didn't agree. So this case was passed 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've reached the same overall conclusion on this complaint as our investigator.

I note that Mr S said he would like to comment further, and asked for some additional time to do that. Our investigator agreed to extend the deadline for comments, but that deadline passed quite some time ago, and we haven't heard from Mr S again. I do think it's now appropriate to reach a decision in this case.

Our investigator has explained that our service cannot consider the actions taken by the receivers appointed in this case. She explained that although the receivers were appointed by Santander, they act for Mr S, and as such, we cannot look at what they did, as part of a complaint about Santander. That's right. I've checked the terms of Mr S's mortgage, and Santander does have the right to appoint a receiver. I don't think Santander acted unfairly or unreasonably when it did so.

It appears that Property 2 was sold by the receivers, so I cannot then look at the sale price achieved for the property by those receivers.

Mr S said he didn't get key items of post, because Santander hadn't updated his address, although he said he'd already told Santander his new address. But the notes on Mr S's mortgage suggest he told Santander he had moved, but didn't give it a new address. So it looks as if Santander was sending post to the last address it held for him.

I also note that Mr S does seem to have become aware of the appointment of receivers, not long after post about this was sent to Property 1. So even if Santander should have updated Mr S's address sooner, I wouldn't be able to say that Mr S missed out on key information because Santander was using an old address.

Mr S also said he felt he should have been offered a new fixed interest rate, but Santander kept turning this down. It looks as if Mr S's last fixed interest rate deal ended in late 2018, and in 2019, Mr S's mortgage was not in arrears, because he had sold another property. I can't see that Mr S applied for a fixed interest rate at this time and was refused. And because this is a BTL mortgage, the onus is on Mr S to ask for that if he wants it.

After 2019, Santander has shown our service that Mr S's mortgage for Property 2 was, unfortunately, in arrears for much of the time until it was handed over to receivers, and then sold. I don't think it would be unreasonable for Santander to refuse a new fixed or discounted BTL rate while Mr S's mortgage was in arrears.

I can see that Mr S has told us about a number of other aspects of this mortgage he was unhappy with. He's told us he can now see additional charges added to the mortgage, and doesn't know what these were for. And, although the property appears to have sold in late February 2024, Mr S said he still didn't have any of the money in early April. I don't think Santander has had a chance to consider these complaint points for Mr S, and I don't want to delay a response on the above issues by asking Santander to consider new points now. So I won't look at those issues here, but our service will be in touch with Mr S to talk about raising fresh complaints with Santander about these issues.

On the points I have been able to consider here, I don't think Santander has been unfair or unreasonable. I know that Mr S will be disappointed, but that means 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 19 August 2024.

Esther Absalom-Gough

Ombudsman