

The complaint

Mr P complains that Santander UK Plc caused delay in his mortgage application, which meant he ended up completing at a higher interest rate.

What happened

Mr P applied for a mortgage with Santander via a broker. This was a re-mortgage on a property he already owned. As part of the process Santander obtained a valuation. The valuation said that there was evidence of structural movement, because there was cracking to a conservatory wall. The valuer said that it appeared significant and likely to be progressive, and therefore that a structural engineer's report would be required. The valuation said that if the report identified works would be required they must be carried out and a retention should be put in place in the meantime. The valuation was carried out on 8 April 2022.

On 21 April 2022 Santander issued a mortgage offer. It offered to lend £241,000 over ten years on interest only terms, with an interest rate of 2.44% fixed for five years. The offer contained the following special conditions:

2. You must send us any reports, specifications or estimates referred to as repairs recommended as a condition of the mortgage in the valuation report. When we receive these they will be sent to an independent valuer for approval. We have the right to alter the amount of funds that we've previously advised we're keeping back.

We have the right to retain some of the loan money until the works have been completed. We'll arrange for the property to be inspected again when you ask us to do so in writing. We will not release the rest of the loan money until our valuer has confirmed that the work has been completed to the valuer's reasonable satisfaction.

...

3. You must obtain a report on the structural stability of the property from a Structural Engineer in respect of the Subsidence / Movement mentioned in the valuation report, along with reports / cost estimates for any other works also mentioned in the valuation report. Copies must be sent to us for approval and to prevent any undue delays it is recommended that this is sent to us at least 2 weeks before completion / settlement is due. We won't be able to give you the loan money until the report(s) / estimate(s) have been approved by an independent valuer.

...

21. Please see comments made within the valuation report.

The offer included a copy of the valuation, and was sent to Mr P's broker. As this was a re-mortgage rather than a purchase Santander appointed a solicitor and the offer was also sent to the solicitor.

Mr P says that neither Santander, nor its solicitors, drew the conditions or the need for a report to his attention, so he wasn't initially aware of it. When he became aware Mr P obtained a report and sent it to Santander, but says that there was further delay before Santander told him that remedial work would need to be carried out before the mortgage could complete. Mr P arranged for the work to be carried out, but then Santander told him a warranty would be required, which caused further delay.

The offer had originally expired on 2 September, but Santander had agreed an extension to 22 November. However, the mortgage didn't complete in time. Santander wouldn't agree to a further extension, and said Mr P would need to re-apply. That meant the interest rate in the original offer was no longer available and Mr P would need to select a rate from those available at the time he re-applied.

Mr P complained. He said that it hadn't been made clear that a report would be needed. And then when he was made aware, there were further delays when Santander then required works to be carried out and then asked for a warranty. He said that if Santander had made all its requirements clear from the start, everything could have been done in time. And he didn't think that this was necessary in any case, because the issue was minor damage to a non-load bearing wall on the conservatory not the property itself. Mr P said he'd ended up staying with his existing lender but had paid – and would be paying – much more interest than he would have paid on the Santander offer. He wants Santander to honour the offer.

Santander said it had set out what was required in the offer. It had sent the offer to Mr P and to his broker and the solicitor. It had chased the broker several times to check on progress but hadn't received replies. It had agreed to an extension to the offer but couldn't agree a further extension. It had confirmed that everything was satisfactory on 18 November, which left time to complete before 22 November, but completion didn't happen in time because it didn't receive the certificate of title before the offer expired. It didn't agree that it had done anything wrong.

In my first provisional decision, I reviewed the evidence and found that Santander had received the engineer's report from Mr P's broker on 29 June 2022. It had then taken no action for two months, telling Mr P and his broker that there were no obstacles to completion in the meantime. It was only in late August that Santander shared the report with the valuer and said that work would need to be carried out before completion.

I found that the mortgage could have completed on 24 November 2022, had the offer not expired on 22 November. Given that the deadline was only missed by two days, I found that it was more likely that not that, but for Santander's failure to act for two months following receipt of the report, Mr P's mortgage would have been able to complete in time.

I went on to say:

"To put matters right, therefore, Santander should put Mr P back in the position he would have been in had the mortgage completed in time. In order to do that, there are two options – either it reinstates the mortgage offer and lends to Mr P as it ought to have done, compensating him for the additional interest he's had to pay in the meantime. Or it compensates Mr P both for that past loss and for the additional future interest he'll have to pay with his current lender until the end of the fixed rate he should have had in 2027.

In order for me to decide the best way forward, I would like Mr P to provide further details of what he did when the Santander mortgage didn't go ahead – including copies of any mortgage or rate switch offer he did take. Mr P should also provide evidence of any other losses he has incurred – such as costs to arrange the

mortgage he took instead of the Santander one. This will enable me to decide the appropriate redress.

In addition to compensation for financial loss, I'm also minded to require Santander to compensate Mr P for the distress and inconvenience caused. Because of Santander's error he lost out on the mortgage he hoped to take, and was forced to take a higher interest rate, paying more as a result. The process took longer and was more frustrating than it ought to have been. I currently think £400 compensation is fair."

Mr P provided more information about his circumstances at the time and since. He said:

- In the period between applying for this mortgage in April 2022, and completion failing in November 2022, interest rates had risen significantly.
- As a result, when the re-mortgage to Santander couldn't go ahead, he was unable to find another interest only mortgage for the same amount as he was proposing to borrow from Santander.
- He couldn't stay with his existing lender, because the term of his current interest only mortgage was due to end at the beginning of 2024.
- Mr P was therefore forced to sell a holiday property to raise funds to reduce his mortgage balance. He was able to reduce the balance by around £150,000, and then took a new mortgage from a third lender for £90,000 on repayment terms.
- Mr P said that as a result it wasn't possible to reinstate the Santander mortgage offer, because his circumstances had been forced to change since. So he would prefer to be compensated for the additional interest he's had to pay instead.
- Mr P also said that he didn't think £400 compensation was enough. He said that Santander's mistake had not only meant that he lost the mortgage offer and lower interest rate that came with it. He also lost his holiday home years sooner than he'd planned to do so, meaning he will lose out on being able to use it in the coming years. And the stress of not being able to find another interest only mortgage and having to come up with – and implement – a plan to reduce the balance to afford a repayment mortgage instead had had a substantial impact on his health. Mr P said that he'd since been prescribed medication for depression and anxiety.

In my second provisional decision, I set out my revised thoughts on how to put matters right. I said:

"Having also reviewed the findings reached in my first provisional decision, I see no reason to change my mind about upholding this complaint. I'm grateful for the further information Mr P has provided, which has enabled me to set out how I think Santander should put matters right.

I remain satisfied that, but for Santander's failure to progress the engineer's report in June 2022, Mr P would have been able to complete on his mortgage by the offer expiry date of 22 November. In the meantime, and to mitigate his losses, Mr P took other action which has resulted in his circumstances changing. So it's not possible to require Santander to reinstate the mortgage offer. Instead, it should compensate him for the financial consequences flowing from its mistake.

On conclusion of this complaint, Santander should pay Mr P:

- The additional interest he paid on his interest only mortgage balance of £240,798.04, between 22 November 2022 and the date the mortgage was repaid, which I understand was in February 2024. That is the difference between the fixed rate of 2.44% Santander would have charged, and the variable rate Mr P actually paid – 4.25% until 1 December 2022; 5.00% until 1 February 2023; 5.50% until 1 March 2023; 6.00% until 1 May 2023; 6.25% until 1 July 2023; 6.50% until 1 September 2023; and 6.75% thereafter; plus
- The additional interest he paid and will pay on his repayment mortgage, with an opening balance of £90,000 and an 18 year term, from completion in February 2024 to the end of the fixed rate on 31 March 2026. This should only take into account the interest charged and not the capital repayments, and should be based on a comparison between the fixed rate Mr P took of 4.81% and the same mortgage had Mr P been charged the 2.44% he could have obtained with Santander.

The Santander fixed rate would have run until 2 July 2027, and the fixed rate he has now taken with his new lender expires on 31 March 2026. It's not currently possible to know what loss, if any, Mr P will face after 31 March 2026, since that will depend on what fixed rates are available at the time. Santander should therefore contact Mr P in April 2026 to find out what new fixed rate he takes at that time, and then should calculate and pay the remaining loss (if any) for the period between 1 April 2026 and 2 July 2027, based on a comparison of Mr P's new repayment mortgage on interest at the rate he actually takes and interest at the fixed rate of 2.44% that he ought to have taken with Santander.

I haven't included compensatory interest of 8% on the money Mr P is already out of pocket, since while he has lost out through not having that money available to him, that is offset by the benefit of being compensated for future losses before they occur.

Finally, I've thought again about fair compensation for the distress and inconvenience Mr P experienced. I think he took reasonable steps to mitigate his losses but those steps had a further impact on him, as I've outlined above. On reflection, and having taken that into account, I now think fair compensation is £1,000."

In response to my provisional decisions, Santander said that it accepted it should have acted on the report once it received it. But it said that once it did so, there was then a further month for completion to take place, and it considers that the failure to complete was because of delays in providing the certificate of title, not in considering the report. It said that it wasn't responsible for the actions of the solicitor. But it said that if I considered that it was responsible for the actions of the solicitor, it would then accept that it would be responsible for Mr P's mortgage not completing on time. It said it would prefer to reinstate the previous rate and offer Mr P a new mortgage on that basis, rather than pay compensation, because that would be more straightforward, given the uncertainties and the need to reassess compensation in 2026.

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.

Having done so, and having also thought again about what I said in my provisional decisions, I haven't changed my mind.

The solicitor was appointed by Santander, but was acting for both Mr P and Santander. It

was therefore only acting as agent for Santander for part of the time. But in any case I don't think I need to make any findings about whether there were failings on the part of the solicitor, and if so whether Santander is responsible for those failings. That's because I'm satisfied that the primary responsibility here lies with Santander in failing to action the report for two months.

In the end, completion was only two days over the revised offer deadline. But for that two month delay, Mr P's mortgage would have completed in time – even if the solicitor also caused delay. Any further delay caused by the solicitor (if there was any) only had an impact because the earlier, and more substantial, delay by Santander had already meant that there was minimal flexibility left.

I also bear in mind that Santander could have agreed to extend the offer deadline by a further two days – which, given its responsibility for almost all if not all of the delay, would have been the fair thing to do. But it didn't do that.

I understand Santander's point that it's not ideal that redress will have to be revisited in 2026, and that it would be better to resolve the complaint with finality now. But the difficulty here is that Mr P hasn't taken a like for like mortgage, and had to make substantial changes, because of Santander's failings. So this isn't a question of simply reinstating the earlier offer; a new mortgage from Santander to replace the one Mr P ended up taking would be of a fundamentally different character to the one it previously agreed to lend.

Putting things right

To put things right, Santander should pay compensation as set out in my second provisional decision, reproduced above.

My final decision

My final decision is that I uphold this complaint. To resolve matters, Santander UK Plc should:

- Within 28 days of when we notify it of Mr P's acceptance of this decision, pay to Mr P:
 - The additional interest he paid on his interest only mortgage balance of £240,798.04, between 22 November 2022 and the date the mortgage was repaid, which I understand was in February 2024. That is the difference between the fixed rate of 2.44% Santander would have charged, and the variable rate Mr P actually paid – 4.25% until 1 December 2022; 5.00% until 1 February 2023; 5.50% until 1 March 2023; 6.00% until 1 May 2023; 6.25% until 1 July 2023; 6.50% until 1 September 2023; and 6.75% thereafter; plus
 - The additional interest he paid and will pay on his repayment mortgage, with an opening balance of £90,000 and an 18 year term, from completion in February 2024 to the end of the fixed rate on 31 March 2026. This should only take into account the interest charged and not the capital repayments, and should be based on a comparison between the fixed rate Mr P took of 4.81% and the same mortgage had Mr P been charged the 2.44% he could have obtained with Santander; plus
 - £1,000 compensation for distress and inconvenience.

I don't include compensatory interest of 8% on my award because the benefit of

being compensated for losses from now to March 2026 upfront offsets the detriment of being out of pocket between 2022 and now.

- In April 2026:
 - Contact Mr P to find out what new interest rate he took on the expiry of his current one in March 2026.
 - Calculate and pay the remaining loss (if any) for the period between 1 April 2026 and 2 July 2027, based on a comparison of Mr P's new repayment mortgage on interest at the rate he actually takes at that time and interest at the fixed rate of 2.44% that he ought to have taken with Santander.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 11 July 2024.

Simon Pugh
Ombudsman