

The complaint

Mrs H and Mr S are unhappy that Santander UK Plc have added fees of £1,311 to the mortgage account for court charges when they transferred the mortgage account to a third-party company when they applied for repossession.

Mrs H and Mr S said that this has put them in a very difficult financial position.

What happened

Mrs H and Mr S took this mortgage out with Santander in July 2007 for £266,999 over a term of 35 years. It was taken out on a capital repayment basis.

The mortgage changed to part interest only in 2009. Over the years, Mrs H and Mr S have taken out various fixed rate products.

Mrs H and Mr S have said they never missed a mortgage payment for around 17 years and it's only from June 2023 that they started to have difficulty with their payments. They said they fell into financial difficulty and Santander started litigation action after transferring their mortgage account to a third-party company TLT. They said they had a verbal agreement with Santander to pay a certain amount each month so they don't think that possession action should have started.

They don't believe that Santander should have tried to repossess the property as the level of arrears was no-where near the property value. Mrs H and Mr S said this caused them a great deal of stress with their health and mental wellbeing affected at what was already a very stressful time for them. They don't believe that Santander did enough to help them.

Mrs H and Mr S said that Santander added £1,311 worth of fees to the mortgage which was unjustifiable, and they would like these to be refunded along with compensation for the stress they have been caused. They also complained that Santander's communication was 'very bad' and all they did was send them threatening letters.

Mrs H and Mr S managed to repay the arrears in June 2024 so they don't think adding the fees is fair.

Santander have issued several final response letters to Mrs H and Mr S about the complaints they made about their mortgage. Santander didn't agree that they had acted unreasonably and said they tried numerous times to speak to Mrs H and Mr S and as they were unable to put any payment arrangements in place, they referred Mrs H and Mr S' mortgage to their solicitors, TLT.

Mrs H and Mr S brought their complaint to the Financial Ombudsman Service where it was looked at by one of our Investigators. Our investigator didn't uphold the complaint and felt that Santander were fair in the actions they had taken.

Mrs H and Mr S disagreed and in summary, made the following comments:

- Santander have not treated them fairly under MCOB (Mortgage and Home Finance: Conduct of Business Sourcebook)
- Santander and TLT have not considered their case on an individual basis.
- Santander did not discuss adding the arrears to the mortgage. Mrs H and Mr S said they would have been in a position to repay the mortgage following on from a legal

case they had going on at the time.

- Mrs H and Mr S said they were not happy with a field agent fee that was added to their mortgage, and they would like this included as it forms part of their complaint.
- Santander could have considered delaying interest payments, extending the term of the mortgage, changing the type of mortgage and adding the arrears balance to the mortgage – but they didn't do any of this.
- They have never missed a payment for 17 years and a court would not deem that completing an income and expenditure form should be relied on.
- Santander would not engage with Mrs H and Mr S and would refer them to TLT who went ahead with litigation without notice.
- Mrs H and Mr S never received the tariff of charges or anything in relation to court charges other than receiving a letter to repossess their property which had incorrect financial information on it.
- Santander wrote to Mrs H and Mr S on 25 January 2024 saying their account was passed to TLT when only 3 monthly payments had been missed.

Following on from Mrs H and Mr S' response the investigator asked Santander if they would consent to our service looking into the complaint point about the field agent fee, as the final response letter that had been sent to Mrs H and Mr S about this was issued over six months ago. Santander didn't agree and said that Mrs H and Mr S had brought this part of the complaint too late.

Our investigator then issued a further opinion to Mrs H and Mr S reiterating her position but she also found that we wouldn't be able to look into the concerns surrounding the field agent fee as Mrs H and Mr S didn't bring that complaint to our service in time.

Mrs H and Mr S disagreed with the outcome of the complaint and the fact that we were unable to look into the field agent fee. They asked for the complaint to be reviewed by an Ombudsman, so it was passed to me to decide.

I issued a jurisdiction decision letting Mrs H and Mr S know that I wouldn't be able to consider the complaint point about the field agent fee as this had been brought to our service too late. But explained I will be able to consider the other complaint points in relation to the fees and charges applied to the mortgage and how Santander dealt with Mrs H and Mr S when they fell into financial difficulty.

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'd firstly like to say how sorry I am to hear about the impact that all of this has had on Mrs H and Mr S and their family. I appreciate it's been and still is a difficult time for them.

I've given careful consideration to all the submissions made by both parties, but I won't address each and every point that has been raised. I'll focus on the matters that I consider most relevant to how I've reached a fair outcome – in keeping with the informal nature of our service.

Having done all that, I don't think this complaint should be upheld. I realise this will be disappointing for Mrs H and Mr S. But I hope the reasons I have set out below will help them to understand why I have come to this conclusion.

Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point, it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

Having considered everything provided by both parties, I agree with the outcome that has been reached by the investigator. I'll explain why.

Mrs H and Mr S have said they are unhappy with how Santander dealt with them when they were going into financial difficulty. They don't believe that they did enough to help them at the time. They have also complained about fees and charges added to the mortgage including court fees.

Mrs H and Mr S don't believe that Santander should have taken repossession action as quickly as they did, especially as they had an agreement in place to pay an agreed amount each month.

I think it's helpful here to outline how we look at cases involving financial difficulty and what the expectations are for both lenders and consumers.

When we consider complaints about financial difficulties, we need to consider whether or not a lender has acted fairly towards the consumer, given their circumstances at the time. We'd expect a lender to treat consumers who are in financial difficulty fairly, discussing their circumstances with them and trying to get the mortgage back on track.

As Mrs H and Mr S have said, Santander could have suggested flexible and tailored solutions, taking into account their personal and financial circumstances to try and find a way forward.

Usually, the first step is for the lender to find out what the consumer's circumstance's are and this is usually done by asking for an income and expenditure (I&E) assessment to be completed. The lender will then consider whether to offer an appropriate concession based on the information that has been provided.

Consumers need to engage meaningfully with the lender about their circumstances and work with the lender if asked for an I&E to be completed in order to see what options are available, if any.

Possession should always be a last resort and lenders signed up to the mortgage charter provisions have agreed not to repossess until at least 12 months after a consumer has first missed payments. This came into effect from 26 June 2023.

I've firstly taken a look at the transaction history and contact notes provided by Santander to get an understanding of what has happened.

I can see that the first mortgage payment that was missed was in June 2023 and the account was then brought up to date the following month. But a further payment was missed in September 2023, October's payment was slightly short but then nothing was paid in November and December 2023. Payments were sporadic or less than the contractual monthly payment during 2024 as well.

At the point that Santander passed the mortgage account to their solicitors, arrears stood at £5,712.67 and before Mrs H and Mr S paid them off in June 2024, arrears stood at £8,974.32.

I can see that there were numerous attempts by Santander to contact Mrs H and Mr S and it seems that there was some contact made by Mrs H. But the mortgage was still in arrears by a number of months against the contractual monthly payment and in January 2024, there is a note to say that there hadn't been any contact by Mrs H and Mr S for at least 90 days. Mrs H contacted Santander in February 2024 where she wanted to find out about obtaining a new interest rate. It looks like Santander explained that the arrears would need to be cleared as the account was now at litigation stage due to not having any contact with them.

It's apparent from the contact notes that when Mr S spoke to Santander in September 2023, they said they were going to struggle as they had legal matters to deal with and they would call Santander back. It was noted that they were asked to complete an I&E in October 2023. A contact note in October suggests that Mrs H called to make a payment but didn't want to discuss their situation and just wanted to make the payment.

Having considered everything I think it's fair to say that Santander did try to reach out to Mrs H and Mr S on several occasions but an agreement still wasn't put in place to repay the arrears as Santander required an I&E which from what I can see, Mrs H and Mr S didn't send back. I understand that Mrs H and Mr S said that they were quite unwell with Covid at the time and looking after their young children so didn't send the forms back. And while I appreciate that would have been a difficult time, it would be very difficult for Santander to agree a way forward without having an income and expenditure form completed.

I have also seen that Mrs H and Mr S had a discussion with TLT in March 2024 who agreed to put a two week hold on court action until the form was sent in, which was reasonable. But it doesn't look like this was returned. But as the arrears were then cleared in June 2024, the hearing was adjourned.

Having looked at the letters that Santander sent to Mrs H and Mr S, I appreciate that Mrs H and Mr S found these to be threatening, but this was not the intention of the letters and I do not agree that they were. The letters gave details about the arrears asking Mrs H and Mr S to contact Santander to discuss them. Santander also provided details of other organisations that Mrs H and Mr S could contact for support, so I do think that Santander were trying to engage with Mrs H and Mr S.

I can't say that Santander have acted unfairly here. They tried to make contact to find out about Mrs H and Mr S' circumstances to try and agree a way forward but it doesn't look like there was much engagement from Mrs H and Mr S. I don't think it was unreasonable for Santander to refer the account to their solicitors when they did as there hadn't been any contact from Mrs H or Mr S for a number of months and the arrears were increasing on the mortgage. Mrs H and Mr S said that litigation action had started too quickly as they had only missed a few months mortgage payments, but Santander didn't do anything wrong here.

Had they of had a meaningful conversation with Mrs H and Mr S about their circumstances then it may be that other options could have been arranged – but this didn't happen. And I note that Mrs H and Mr S said they were dealing with legal matters at the time which they said would clear the arrears, but I can't see that any specifics were discussed with Santander about this to see whether it was a viable option.

Although the mortgage charter states that repossession shouldn't happen for at least 12 months since the first payment was missed, that doesn't mean that litigation action cannot start. And this didn't start until February 2024 when the first payment was missed in June 2023.

I also note that Mrs H and Mr S said that once their account had been transferred to TLT, they were not able to speak to Santander who referred them to TLT. This is not unusual; Santander had referred the matter to their solicitors who had taken the account over from February 2024. So any communications from that point would have been with TLT. However I have seen instances where Santander have spoken to Mrs H and Mr S after this time.

Turning to the fees that have been added to the mortgage account, I can see that a total of £1,192.60 has been added which consisted of stage processing fees at £583, English and Welsh disbursement fees at £455, land registry fee at £15 and VAT at £139.60. Having looked at these costs, I don't agree that Santander were unfair in adding these to the mortgage account. When a mortgage account is in arrears, a certain amount of legal work is carried out in the background and while I appreciate that the arrears were paid off in June 2024, the work involved in this had still happened. It's not unusual in situations like these that these costs are added to the mortgage. I therefore won't be asking Santander to refund

these. I haven't seen any other fees or charges that have been added to the mortgage account other than the field agent fee which isn't something I am able to comment on.

I know that Mrs H and Mr S will be disappointed with my decision, but I'm satisfied that Santander were reasonable in their dealings with Mrs H and Mr S.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr S to accept or reject my decision before 29 May 2025.

Maria Drury
Ombudsman