

The complaint

X complains that Santander UK Plc declined their application to port their entire mortgage balance and charged them an early repayment charge (ERC).

What happened

X took a five-year fixed rate mortgage with Santander in April 2022. In 2023, X decided to start planning for the future and part of this involved them downsizing their property and freeing up some of the equity in their existing property.

X spoke with an independent mortgage broker, who I'll refer to as M, to ask if they could port their entire mortgage to a new property. The broker completed an agreement in principle (AIP) on their behalf and told them they could port the full amount they currently owed, which was around [REDACTED].

X says they engaged a separate financial advisor at this time who provided advice based on them porting their entire mortgage and freeing up equity in their existing house to invest.

X found a property they wished to buy, and a mortgage application was submitted, with the help of M, to Santander. Santander said that following an affordability assessment, it wouldn't lend more than 75% of the value of the new property being purchased. This limited the amount X could borrow to around [REDACTED] and meant they'd have to pay an ERC on the difference between their outstanding balance and what they were able to borrow.

The new mortgage for [REDACTED] completed in October 2024, and X paid an ERC of around [REDACTED]. X raised complaints with both Santander and M, both of which didn't uphold the complaint. So, X referred both of their complaints to us. This complaint focusses on Santander's actions in this situation. We have another complaint set up against M, which will focus on the role the broker played here. This will be dealt with as a separate decision.

Our Investigator considered the complaint about Santander. She didn't think it should be upheld. She said, in summary, that Santander had fairly assessed the application to port the mortgage, and it was entitled to decide who to lend to, and how much. She didn't recommend the ERC be refunded or that the complaint be upheld.

X didn't accept this. They responded in detail, and said, in summary:

- They'd been told on multiple occasions by Santander over an 11-month period that they'd be able to borrow the full amount they required.
- By the time they were told they couldn't borrow the amount they required, they had emotionally and financially committed to proceeding and had no choice other than to continue with the purchase of the new property.
- The ERC hadn't been clearly communicated to them, and it was unfair for Santander to charge this "penalty".

- They'd been penalised by going via a broker rather than directly to Santander.

X 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.

X has brought their complaint to us in great detail. And they've raised many points in their submissions. I want to reassure them I have read and thought about all of the points they've made. I won't respond in the detail they've submitted their complaint to us. Nor will I address every point they've made. Instead, I'm going to focus on what I consider are the salient points I need to address in order to reach a fair and reasonable outcome. I hope X realises I mean no disrespect by this, and it simply reflects the informal nature of this Service.

The AIPs were provided by M to X. And it was M that was responsible for ensuring X understood this was not a guaranteed offer of borrowing.

However, each AIP says that Santander *"agrees to consider and assess an application for [the amount applied for] based on the information supplied on your behalf by M."*

It goes on to state that it is subject to *"Successful completion of our underwriting and affordability assessment of your application"*.

Based on the above, I think Santander's AIP clearly set out that it wasn't a formal offer to lend. And that no application or amount of mortgage borrowing was ever guaranteed and would always be subject to further checks.

In this case, Santander was the lender. It wasn't providing X with advice on how best to proceed. Nor was it dealing with X directly. X has told us that they were assured by M that they could port their full mortgage with no ERC. I can't hold Santander responsible for any information (or lack of) that an independent broker may have provided them. And, as I've explained, the actions of M will be dealt with in a separate complaint.

X has told us that they made decisions and committed themselves, both emotionally and financially, based on the fact that they thought they could port their entire mortgage without an ERC. However, I'm satisfied Santander didn't ever give them a guarantee they'd be able to do so. And I can't hold Santander responsible for X making decisions without having a formal mortgage offer or guarantee of lending in place.

The mortgage offer sent to X in 2022, sets out that an ERC will be charged if the mortgage is repaid before the end of the fixed rate. And it explains that a borrower has the right to take the mortgage to a new property, but that they must meet Santander's lending criteria, and pass an affordability assessment at the time of applying to port the mortgage. I'm therefore satisfied that Santander was entitled to apply the ERC given X was redeeming part of the mortgage, even though I accept they didn't want to.

X believes that they're being treated differently because they went via a broker rather than direct to Santander. They've pointed to a transcript of a call between them and Santander during which they first raised their complaint. Their interpretation of what they were told is that they'd be entitled to a refund of the ERC if they hadn't used a broker. I've read the

transcript of this call, and I disagree with their interpretation. My view on this call is that Santander explains that as X had been provided with advice from a broker, it would be the broker that was responsible for ensuring X understood they'd be paying an ERC if they proceeded with the lower borrowing. And Santander explains that if they weren't, they'd need to raise this with the broker. Santander goes on to say that it's also the responsibility of the broker to ensure all information is correct when applying for the AIP, and if it wasn't, again that's the broker's responsibility.

X has said that Santander told them *"If there was anything I could do to get this early repayment charge waived I would"*. They believe this is evidence that Santander won't refund the ERC because they used a broker. However, my interpretation is that Santander won't refund the ERC because it hasn't made a mistake. And the advice is to take this up with the broker rather than Santander. I don't agree that X is being treated differently than had the application been submitted directly rather than via a broker.

X has said Santander has breached the Consumer Duty rules in this situation. I've thought carefully about this and have taken the Consumer Duty into account.

X has said that by refusing to lend the amount they required, they didn't receive fair value from the mortgage overall, and that it inflicted foreseeable harm on them.

The Consumer Duty requires that businesses consider what they can do to provide good outcomes for customers – but that doesn't guarantee a customer will get the outcome they want. So, this doesn't mean that a lender is required to set aside its lending criteria in order for a customer to achieve their goals. And, as I've explained above, I'm satisfied that Santander was entitled to decline the amount of borrowing X asked it for.

I've also thought about what X feels is poor and unclear information received regarding the application and being led to believe they could port their mortgage without being charged an ERC. Consumer Duty requires firms to provide clear and timely information to help consumers meet their financial objectives. I've reviewed the mortgage offer, which was produced before the Consumer Duty came into effect. This clearly sets out that porting a mortgage is subject to a lender's criteria at the time of it being ported.

I've also considered the AIP that Santander provided. Again, I'm satisfied this document is clear that the borrowing isn't guaranteed. When Santander underwrote the mortgage, it promptly informed X's broker that it wouldn't be able to agree the borrowing they required. Based on this, I'm satisfied Santander provided X with clear and timely information to meet their objectives.

In summary, I'm satisfied that Santander has acted fairly. It was entitled to assess the affordability of the mortgage application and there was no requirement for it to allow X to port the entire amount if they didn't meet its lending criteria. And, as X redeemed a portion of the mortgage, it was entitled to charge an ERC on this portion of the mortgage. I can't see that Santander has led X to believe that the porting of the mortgage was guaranteed. And I can't hold Santander responsible for any commitments X made prior to having a formal mortgage offer in place.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 5 August 2025.

Rob Deadman
Ombudsman