

## **The complaint**

Mr J and Mrs F complain, through their representative, that Santander UK Plc unfairly and aggressively pursued them for repayment of their mortgage, when only part of it had become due to be repaid. They also feel Santander acted unfairly by not reducing their interest rate.

## **What happened**

Mr J and Mrs F took out a mortgage with Abbey National, a predecessor of Santander, in around May 2006. As I understand it, this was to port an existing interest rate product, borrow more and to replace their previous mortgage. They borrowed £230,000 on an interest only basis over a term of around 18 years. At this point, their mortgage was split into three parts (sub-accounts), with the ported interest rate applied to two parts and the lender's Standard Variable Rate ('SVR') applicable to the remaining part. A new interest rate was applied to all sub-accounts a short time later.

In 2006 and again in 2008, Mr J and Mrs F borrowed additional funds. These were provided under separate sub-accounts, with different term end dates. All borrowing was provided on an interest only basis.

When Santander wrote to Mr J and Mrs F over the years about their repayment plan, its records showed that the existing plan was to sell the mortgaged property at the end of the term.

Mr J and Mrs F contacted Santander towards the end of 2022, as sub-account 1 was due to end in January 2023. They asked to align the term of sub-account 1 with the remaining parts of their mortgage, which had between approximately 20 and 24 months left on their terms. Santander didn't agree to extend the term of sub-account 1 to align the terms of the mortgage, despite Mr J and Mrs F's appeals. So, Mr J and Mrs F put the mortgaged property up for sale. They also sought independent financial advice to see what other options they might have.

Mr J and Mrs F complained to Santander towards the end of 2023. They were unhappy that Santander wouldn't offer them a new interest rate due to the short time remaining on their mortgage term. They were also unhappy with a lack of options provided by Santander, and that it wouldn't agree to extend their whole mortgage term – to facilitate a new interest rate – or change the account to repayment. Santander responded to their complaint on 18 December 2023. It didn't uphold this complaint. It said that the existing interest rate was fixed for two years and couldn't be extended. And it said it hadn't made an error in relation to not agreeing to make other changes – including Mr J and Mrs F's request to extend the term of the whole mortgage to facilitate a new interest rate.

Mr J and Mrs F contacted Santander in early 2024 as they'd been receiving letters about Santander taking legal action. Mr J and Mrs F said the property hadn't been sold yet and they were also considering other options to repay the mortgage, including using pension funds. Conversations between Mr J and Mrs F and Santander continued about possible repayment of the mortgage and legal action. Santander also instructed a solicitor to act on its behalf.

Mr J and Mrs F complained to Santander about it appointing solicitors for litigation when they still had several months remaining on their overall mortgage term. They were also unhappy that they'd incorrectly been told no legal action would take place. Santander responded to their complaint on 9 April 2024. It accepted it had provided incorrect information that their account shouldn't be referred to litigation solicitors. It said that it had correctly instructed solicitors because the full balance of the mortgage needed to be repaid, following sub-account 1 maturing in January 2023. It maintained that it had taken the correct steps but offered to pay Mr J and Mrs F £150 to recognise the distress and inconvenience caused by being given incorrect information.

Mr J and Mrs F were sent a court hearing notification by the Court on 14 May 2024. This said a possession hearing was scheduled to take place on 19 June. Mr J and Mrs F continued speaking with Santander and its solicitors following this. They didn't feel it was right that Santander was seeking possession of the property, when only one small part of the mortgage had ended.

On 14 June a "breathing space hold" was agreed until 13 August 2024. Mr J and Mrs F also asked for the court hearing to be cancelled. Santander's solicitor said the hearing date wasn't cancelled, but that no further action would be taken during the agreed hold.

Towards the end of June 2024, Mr J and Mrs F's representative raised concerns that they hadn't been treated fairly. They felt Santander was taking a heavy-handed approach of taking legal action for a small part of the mortgage, and that all parts of the mortgage should have the same term end date of November 2024. Ultimately, as Mr J and Mrs F were unhappy with how Santander had dealt with matters, they asked the Financial Ombudsman Service to look into their complaint.

Following Mr J and Mrs F's referral to this Service, Santander reviewed its position. It said that it wanted to make a settlement offer to Mr J and Mrs F. In summary:

- It had removed the account from litigation and would refund any litigation fees and associated interest.
- Its financial support team would contact Mr J and Mrs F to discuss their options going forward.
- It offered to pay Mr J and Mrs F £500 for the distress and inconvenience caused.

Santander also said that the whole of the mortgage would fall due for repayment on 1 November 2024. And so, Mr J and Mrs F would need to engage with it about repayment of the balance.

Mr J and Mrs F repaid the mortgage in full in September 2024 through a mixture of refinance and withdrawing pension funds.

Our Investigator thought there was part of Mr J and Mrs F's complaint we couldn't consider. For the parts he determined we could consider, he thought Santander had acted unfairly by not agreeing to extend the term of sub-account 1 when Mr J and Mrs F asked it to do so. But he thought Santander's offer, as summarised above, was a fair way to put things right. Mr J and Mrs F didn't accept that and asked for an Ombudsman to decide on their complaint. So, the case has been passed to me to decide.

I reached the same overall outcome as the Investigator but for different reasons and I reached a different view on how things should be put right. So, I issued a provisional decision.

## **My provisional decision**

In my provisional decision I found we could only consider some parts of Mr J and Mrs F's complaint and I have issued a separate decision to confirm that my findings about that haven't changed.

In relation to the parts of the complaint I can consider, I said:

"The starting point here is that Mr J and Mrs F would always have been required to repay their mortgage when all sub-accounts had ended in 2024 – apart from sub-account 1 which ended in 2023. This was in line with the terms of the mortgage contract and would have been the case even if Santander had agreed to align the sub-accounts. And so, Mr J and Mrs F would always have needed to take steps to either sell the property or to find alternative ways to repay the mortgage by the end of 2024.

I can see Mr J and Mrs F used part of Mrs F's pension to repay some of the mortgage and they have argued she's incurred additional tax because of Santander's actions. But I'm not persuaded, having considered the available evidence, that this is the case. It's evident that while Mr J and Mrs F had been trying to sell their property for over a year, it was not going well. So, they decided to consider other options instead of selling the property. One of those options was to withdraw funds from Mrs F's pension and she incurred tax when doing so.

I do appreciate incurring the tax Mrs F did when withdrawing her pension funds wouldn't have been welcome or ideal. But I don't consider those tax deductions were impacted by Santander's actions. Rather, it was Mrs F's choice to withdraw those funds from her pension in the way she did and when she did. I cannot fairly hold Santander responsible for the decisions she made, as I'm persuaded Mrs F would have needed to withdraw funds from her pension in 2024 in any case, to repay the mortgage debt when it all became due. The same applies to Mr J and Mrs F's decision to use a credit card to repay some of the mortgage debt that the pension withdrawal and refinance didn't cover. I haven't seen any compelling evidence to suggest that Mr J and Mrs F had any other option to repay the mortgage by the end of 2024 than the way they did – unless they sold the property which they had decided they didn't want to, or couldn't, do.

I've next considered if Santander acted fairly in how it pursued repayment of the mortgage after sub-account 1 had matured. I am not persuaded it did, and I'll explain why.

All of Mr J and Mrs F's mortgage borrowing was provided on an interest only basis. Sub-account 1 represented a small portion of the overall borrowing – around £50,000 against total borrowing of approximately £313,000.

When Santander discussed repayment of sub-account 1 with Mrs F towards the end of 2022, she asked for it to align its term end date with the other sub-accounts which were due to end in 2024. This is so Mr J and Mrs F could then, at the end of the overall term, sell the property and repay all the borrowing.

Santander didn't agree to extend the term of sub-account 1 but said it would give Mr J and Mrs F time to sell the property, so long as monthly updates were provided on the progress of the sale. Because of this, Mr J and Mrs F took steps to market the property for sale and they provided regular updates to Santander about their progress. After a year, Mr J and Mrs F had been unable to sell their property but

were also investigating other potential options. At this point, Santander decided to start legal action and instructed a solicitor to act on its behalf.

Santander has accepted that it moved to legal action sooner than it should have done in the circumstances of this case. And I agree. But I also think Santander ought to have looked more fairly at Mr J and Mrs F's request to align the terms before sub-account 1 expired in 2023, considering what would be in their best interests. It wasn't long before the other sub-accounts were due to end in 2024, and the other sub-accounts represented most of the mortgage borrowing. Mr J and Mrs F were aware of that and had a plan at that time to repay the mortgage – although I appreciate it may not have later worked out as intended. In my view, the trouble caused by Santander pursuing repayment of sub-account 1 before most of the mortgage borrowing was due to be repaid, could have been avoided had Santander acted fairly at the end of 2022. That is, by extending the term of sub-account 1 to match the remaining parts of the mortgage.

Santander has said it didn't agree to extend the term of sub-account 1 for several reasons, including that the extended term would not meet its criteria for interest only mortgages. It has also referred to some of the rules set out within mortgage regulation. But, taking that all into account, I don't think Santander's decision represented reasonable forbearance in the individual circumstances of this case. Mr J and Mrs F already had a mortgage in place which went beyond Santander's usual criteria. All they wanted to do was to have sub-account 1 on the same terms that were already in place for the rest – and indeed most – of their borrowing. In all the circumstances, I am persuaded doing that was in their best interests and that it would have been fair and reasonable for Santander to agree to it. Had it done so then it would not have needed to pursue repayment of the mortgage as soon as it did. Nor would it have needed to take legal action when it did.

To be clear, matching the terms of the sub-accounts is a different consideration to extending the term of the mortgage so there was enough time to apply a new interest rate. I've explained above why I can't consider Mr J and Mrs F's concerns about that and Santander not offering a new interest rate in 2023. I won't comment further on that.

I think the steps Santander has offered to take to put things right, by stopping litigation (which it has done), offering to refund the associated costs incurred as a result, and by offering pay Mr J and Mrs F £500 in recognition of the distress and inconvenience caused (in addition to the £150 offered for providing incorrect information), goes some way towards putting things right. But I don't think it goes far enough.

I've taken into account that Mr J and Mrs F appointed a representative to help them with the situation when Santander was seeking legal action. And I understand they've incurred a cost of over £6,000 for the services provided by the representative. I appreciate Mr J and Mrs F may feel it was necessary to incur these costs because of the position they were in. But, while I appreciate they faced a difficult situation, it was ultimately their decision to appoint a fee charging third party.

They could, instead, have referred their concerns to the Financial Ombudsman Service as they have now done, free of charge. They could also have sought advice from a free-to-use debt charity. Their representative has argued that it was only because of his involvement that litigation was stopped, and he has pointed out that this Service cannot overrule the Court. It's correct that I cannot overrule a Court decision, but that alone doesn't determine the scope of my investigation. And, as I've

explained above, alternative options were available to Mr J and Mrs F that would not have incurred a cost. Ultimately, Mr J and Mrs F did not need to employ the services of a fee charging representative to seek a fair resolution to their concerns. So, I don't think it would be fair to hold Santander liable for the costs they agreed to for their representative's services.

Mr J and Mrs F also incurred further costs of £750 by seeking a report from a pension adviser. I appreciate they may have decided to seek an adviser's report to help support their complaint, but it was their decision to incur a cost to do so. This means that I can't fairly hold Santander liable for these costs either.

I appreciate Mr J and Mrs F may have incurred costs for marketing their property for sale. But this is something I consider they would most likely have incurred a cost for in any event, as selling the property was their initial plan to repay the mortgage. I'm persuaded it's only once they began the sales process and found it wasn't going well that they decided selling the property wasn't what they were going to do. And I don't think Santander pursuing the debt later than it did would have changed the overall course of events. For these reasons, I do not consider Santander should cover any costs incurred by marketing the property.

However, litigation costs were incurred as a result of Santander starting legal action unnecessarily and unfairly. Santander has already offered to refund the litigation costs, and I agree that those costs should be refunded. A portion of those costs were repaid by the refinance and some by credit card, because Santander didn't remove the costs before the mortgage was redeemed. So, it's difficult to say exactly what the financial loss is to Mr J and Mrs F on having to pay the litigation costs when redeeming this mortgage. I provisionally consider the fairest way to put that right is for Santander to now refund the litigation costs (plus the associated interest which was applied to the mortgage account) along with 8% simple interest per year\* – from the date the mortgage was redeemed to the date of settlement.

I've also considered the non-financial detriment Mr J and Mrs F have experienced, because of Santander's actions. I don't think it's correct that this should be considered only from the point at which Santander began litigation. I do not think it acted fairly by indicating to Mr J and Mrs F that they would need to repay the entire mortgage by selling the property, because sub-account 1 had matured. In my view, Santander applied unwarranted and premature pressure to Mr J and Mrs F, from the point it began to seek repayment of sub-account 1. I think it's evident that this caused them avoidable worry that they may have to sell their home and/or consider their options earlier than expected. And I think this worry and inconvenience could have at least been alleviated if either the sub-account terms were aligned or, if Santander had waited until the final parts of the mortgage had become due, before seeking repayment of the total debt.

I don't think Santander's existing offer of compensation goes far enough to acknowledge the substantial distress and inconvenience caused by its actions. For these reasons, I provisionally consider that Santander should pay Mr J and Mrs F a total of £1,000 to compensate them for the distress and inconvenience caused. This includes the total offer of £650 compensation that Santander has already made to Mr J and Mrs F. If Santander has already paid some or all of this to Mr J and Mrs F, it can deduct that amount from the total.

### **My provisional decision**

My provisional decision is that I intend to uphold this complaint in part and direct

Santander UK Plc to:

- Refund the legal costs it applied to the mortgage since January 2023 to Mr J and Mr F (plus the associated interest which was applied to the mortgage before it was redeemed) along with 8% simple interest per year\* - from the date the mortgage was redeemed to the date of settlement.
- Pay Mr J and Mrs F a total of £1,000 compensation.

\*If Santander considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from the interest refund, it should tell Mr J and Mrs F how much it has taken off. It should also give them a tax deduction certificate if they ask for one, so they can reclaim the tax from HMRC if appropriate."

I invited Mr J and Mrs F and Santander to let me have any further comments or evidence they wanted me to consider before I make my final decision.

Santander didn't provide any new arguments or new evidence.

Mr J and Mrs F were disappointed with my decision, and they maintain that they incurred several costs because of Santander's actions that could have been avoided had Santander taken a more reasonable approach. This includes Mrs F having to pay more tax due to withdrawing funds from her pension when she did. They didn't, however, provide any new arguments or new evidence.

### **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 appreciate Mr J and Mrs F are disappointed with the outcome of their complaint and they feel that had Santander been more patient, they would have avoided a lot of additional costs. However, I explained in my provisional decision why I do not require Santander to reimburse Mr J and Mrs F for the additional costs they've incurred, other than the legal costs Santander applied to the mortgage since January 2023. And, having considered again the conclusions I reached in my provisional decision; in the absence of any new arguments or new evidence I see no reason to depart from it.

### **Putting things right**

In summary, my decision is that Santander must take the following steps to put things right:

- Refund the legal costs it applied to the mortgage since January 2023 to Mr J and Mr F (plus the associated interest which was applied to the mortgage before it was redeemed) along with 8% simple interest per year\* - from the date the mortgage was redeemed to the date of settlement.
- Pay Mr J and Mrs F a total of £1,000 compensation.

\*If Santander considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from the interest refund, it should tell Mr J and Mrs F how much it has taken off. It should also give them a tax deduction certificate if they ask for one, so they can reclaim the tax from HMRC if appropriate.

**My final decision**

My final decision is that I uphold this complaint in part. Santander UK Plc must put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and Mr J to accept or reject my decision before 30 July 2025.

Keith Barnes  
**Ombudsman**