

The complaint

Ms G complains that Santander UK Plc refused an application to transfer her joint mortgage into her sole name. She says that she was misled into repaying other lending, having been told that would improve the chances of her application being accepted.

What happened

Ms G has a mortgage with Santander, taken out in 2017 in joint names with a third party. The mortgage is secured over a shared ownership property.

In June 2024, Ms G asked Santander to transfer the mortgage into her sole name. Santander carried out an affordability assessment and said that the mortgage wouldn't be affordable for Ms G on her own, so it declined the application.

However, Ms G says that, during the application, she was told that the outcome might be different if she repaid some other debts. That might make the mortgage affordable and allow the application to go ahead. Ms G therefore paid off two unsecured loans, partly using money from her savings and partly using money borrowed from family members. She then re-applied to Santander.

Santander considered the new application. It said that the mortgage would still be unaffordable for Ms G on her own. It said that it had made an error in the original application – part of Ms G's income comes from state benefits, which it wouldn't take into account. But Santander hadn't considered the first application on that basis. This meant that even after repaying the loans the application still wouldn't have been affordable for her.

The mortgaged property is a shared ownership property. Ms G has a mortgage over the part she owns, and she pays rent to the shared owner for the other part. She receives the housing element of Universal Credit as a contribution to the rental payment. Santander said that its policy is not to include this benefit as part of income for the purposes of an affordability assessment. But it still took the rent into account as part of her expenditure – meaning that Ms G fell around £50,000 short of the amount she would need to borrow to be able to take the mortgage over on her own.

Ms G complained, both about the refusal of her applications, and also that she had been misled into repaying the unsecured lending – and the difficulties caused by finding the capital to do so.

Santander accepted that it had made an error in suggesting that the application might be accepted if Ms G repaid the unsecured loans. But it said that it had reached the right outcome, because her applications didn't meet its affordability criteria. It offered £200 compensation for the upset caused by the misleading information.

Ms G wasn't happy with that and brought her complaint to the Financial Ombudsman Service. She said that she wanted the application to go ahead, and for Santander to compensate her for the costs of repaying the unsecured lending – either by offering her new loans on the same terms, or by compensating her for the increased interest she would have

to pay to borrow the same amount on new loans at higher rates, so she could replace her savings and repay family.

Santander said that wouldn't be a fair outcome. While it ought to have made things clear to Ms G from the start, she was better off having reduced her other debt – and that would also make it more likely that another lender might offer her a new mortgage. But our investigator said that Ms G couldn't explore going elsewhere because she was tied in to a fixed rate, and had used resources she might have been able to use to pay an early repayment charge to clear her unsecured lending in the expectation Santander would lend to her. He thought that £200 compensation was fair, but also said that Santander should reconsider her application, this time including the income from housing benefit to offset the rental expenditure.

Ms G explained that her circumstances had since changed and she was no longer in a position to proceed with the application to take the mortgage over in her sole name. And she was being pressured by the family member who lent her money to clear the unsecured borrowing to repay the debt.

Our investigator revised his view of the case in light of that. He said that to put Ms G back in the position she would have been in had she been given correct information from the start, Santander should offer unsecured lending to replace the loans she had repaid – which she wouldn't have done had she known it wouldn't have made it more likely Santander would agree to transfer the mortgage.

Santander then changed its position on the complaint. It said that, on reflection, it didn't agree that it had misled Ms G or given her the impression that paying off the unsecured debts would have increased the likelihood of her application being granted. It therefore didn't agree to replace the unsecured loans. But given its change of stance, it offered to pay a further £100 compensation.

Ms G also didn't agree with the investigator. She said that she no longer wanted a relationship with Santander because of how she had been treated. So she didn't want it to offer her replacement unsecured lending. She said that she could now borrow the required amount from another lender, but at a higher interest rate than on the loans she had paid off. So she wanted Santander to compensate for the difference in interest she would have to pay on the new loan compared to the old one. She said that amounted to £3,138 over the term of the loan.

Our investigator agreed that Santander hadn't expressly told Ms G to repay her unsecured loans. But it had said that the problem was with affordability, and hadn't explained that this was because of the issue with her housing benefit. He said that Ms G was therefore left with the impression that if she could reduce her outgoings by repaying the loans the application was more likely to be granted – when that wasn't the case. He wasn't persuaded to change his mind about the outcome he had reached. As no agreement could be reached, the case comes to me for a final decision.

It's now come to light that the joint borrower was declared bankrupt in 2024, and was very recently discharged from bankruptcy. Santander said that made no difference to its position on the complaint – it does not have to agree a new sole mortgage in the other borrower's name where one borrower has been declared bankrupt.

My provisional decision

I issued a provisional decision in which I said:

“I don't agree with Santander that the bankruptcy of the joint borrower makes no

difference. A mortgage debt – but not the lender’s security – is included in a bankruptcy. That means that the third party’s obligations to repay this mortgage were extinguished by the bankruptcy. Santander can no longer seek repayment of any part of the mortgage from him, because he is no longer liable for it. However, that doesn’t impact the security it holds over the property, and it doesn’t impact Ms G’s ongoing liability for the outstanding mortgage debt.

With that in mind, and regardless of whether Santander should or should not have granted Ms G’s application to take over the mortgage in 2024, the fact is that this is now for all practical purposes a sole mortgage. Only Ms G is liable for it, and only Ms G can be required to make payment. There is no purpose to be served in keeping the third party’s name on a mortgage that is no longer his and for which he is no longer liable. Removing him does not impact on Santander’s ability to recover payment from Ms G, and does not impact the security it holds over the property. Because of the bankruptcy, Santander should remove the third party from the mortgage account and treat it as a sole mortgage in Ms G’s sole name from now on. It should also consent to any application Ms G might make to amend the title to the property to remove the third party if he or the bankruptcy trustee (as appropriate) consents, as long as it remains subject to Santander’s charge.

Although matters have moved on to that extent, I still need to think about whether Santander handled Ms G’s application appropriately at the time.

At the time, the third party had entered but not been discharged from bankruptcy, and so remained potentially liable for the mortgage debt. Ms G was applying to take the mortgage over in her sole name, removing the third party from it. Under the rules of mortgage regulation, a change like that generally requires an affordability assessment. And there’s good reason for that – the mortgage was originally lent based on joint liability and joint incomes, so it’s not unreasonable to check that Ms G was able to afford it on her own.

However, I’m not persuaded that Santander gave fair consideration to Ms G’s application. In particular, I’m not persuaded it was fair to disregard the housing benefit element of her universal credit from her income but to take into account the shared ownership rental payments that income was designed to cover. We asked Santander to explain the rationale for this, but it simply replied that this was its policy.

I think it’s reasonable to take into account the shared ownership rent. That’s part of Ms G’s expenditure. And it’s an important part of it too – if for any reason she doesn’t pay the rent, the shared owner can repossess the property. That would mean that Ms G loses her home, and it would also put Santander’s security for the lending at risk. It’s therefore important that Santander satisfied itself that Ms G would be able to afford both the mortgage and the rent (along with all her other expenditure).

But I’m not persuaded that it was fair, in all the circumstances of this case, to disregard the part of Ms G’s income designed to cover (or at least contribute to) that rent. Doing so artificially reduced her income below what it actually was. I appreciate that benefits are not guaranteed to be paid indefinitely – but then that’s true of most income, including employment income. The reality is that Ms G qualified for the housing element of universal credit. And she was likely to continue to receive it for as long as she qualified for it – if she no longer qualified for it in the future, that would be because her other income had increased so the rent would still be covered. In the absence of any explanation from Santander, I find it difficult to understand why excluding this part of Ms G’s income was fair and reasonable.

For that reason alone, I would ordinarily be minded to uphold Ms G's complaint. That wouldn't necessarily mean that I would require Santander to grant Ms G's application; there may be other reasons why it would fail. Instead, I would require Santander to reconsider the application, taking account of all her income. However, I'm not going to do that here – partly because Ms G says she no longer wants to go ahead with the application. But mainly because, as I set out above, it's now academic anyway – the fact of the third party's bankruptcy means this has become a sole mortgage in Ms G's sole name, so there is no longer any need for her to apply for that to happen.

That leaves the question of whether Santander ought to compensate Ms G for the impact of repaying her unsecured debt and then re-financing it again at a higher interest rate. I've thought very carefully about this. But I'm not persuaded that this is something Santander can fairly be held responsible for.

Ms G discussed her application with a Santander adviser on 21 May 2024. They went through all her income and expenditure – including the loans – and based on that the application was clearly unaffordable (this was before Santander realised that the Universal Credit included a housing element, so it seems it was taken into account in full). There was some discussion about why that was. But at no time did Santander suggest that Ms G repay the loans and try again. There was no discussion about the loans or their impact on affordability at all.

The next contact with Ms G was on 30 May. She spoke to a different adviser, but made the same request – to find out whether the mortgage could be transferred to her sole name. Again they went through her income and expenditure, but this time Ms G didn't mention the loans at all. She said her only outstanding debt was a credit card. Based on the information given in this call, the adviser put her through to the next stage of the process. Following that, in a call with a second adviser, Ms G said that she did also have two loans but that they would be paid off before she completed a formal application.

I'm therefore satisfied, having listened to the calls, that at no time did Santander advise or suggest that Ms G should pay off her loans or that the application would have a better chance if she did. This was not discussed on the first call, and by the time of the second call a week or so later she had already decided to repay the loans and didn't include them in the affordability information she gave Santander. It's clear, therefore, that the decision to repay the loans was Ms G's alone, and that she made that decision based on her own understanding of how to improve the chances of her application being accepted – without any influence or input from Santander.

I don't think, in those circumstances, that I can fairly hold Santander responsible for Ms G's decision to repay the loans or the costs she's incurred in doing so. It didn't suggest that she do so, and didn't give any indication that it would improve her chances of being accepted. Disappointed at the outcome of the first conversation, she took the risk of repaying the loans to try again – but that was her idea and her choice, and not influenced in any way by Santander.

Putting things right

To put things right, Santander should remove the third party from the mortgage and treat it as a mortgage in Ms G's sole name from now on. Provided she has the consent of the third party or the bankruptcy trustee, and subject to Santander's security, it should also consent to any application she makes to amend the property title to her sole name."

The responses to my provisional decision

Ms G said that she had recently applied again to Santander to take the mortgage over in her sole name, having had salary increases – this time successfully. She had also agreed with the bankruptcy trustee to purchase the trustee's interest in the property, and she was hopeful that the transfer would complete soon.

Ms G said that she wanted me to consider her financial losses because of the rejection of her previous application. She said that Santander had agreed her application when she first made it, but later changed its mind when the underwriting team reviewed the application. She said that she had incurred legal costs, and she was also paying interest on a loan she'd taken from a family member to repay her unsecured debts.

Santander said that it couldn't remove the third party because of the bankruptcy, as it would lose its legal right to recover the debt from him. It said that the Insolvency Act says that a bankruptcy doesn't affect the right of a secured creditor to enforce its security. While it couldn't ask the third party to make payments or report any failure to do so to his credit file, it should keep him on the mortgage until it is repaid. It wouldn't be in Ms G's best interests to remove him from the mortgage, making her 100% liable for the mortgage but only part-owning the property.

Santander also said that it had acted fairly in how it took account of Ms G's universal credit. It was required to ensure the mortgage was affordable and sustainable over its term. Universal credit is means tested and eligibility depends on the applicant's circumstances (not just income, but for example whether there are dependants living in the property). Ms G could lose her entitlement to universal credit at any time – but would still be liable to pay the rent element to the shared owner.

Santander confirmed it had offered – and Ms G had accepted – to transfer the mortgage into her sole name.

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 reviewed things again in light of what the parties have said. I haven't changed my mind about the outcome I reached in my provisional decision, or the reasons I gave for doing so. However, matters have moved on since then and because Ms G's application to transfer the mortgage and property title to her sole name are about to complete. I've considered what Santander said about the impact of the bankruptcy, but I haven't changed my mind about that either. The third party is no longer liable for the mortgage debt and there is no need for him to remain on the mortgage account – but this does not impact Santander's ability to enforce its security. If Ms G's renewed application completes soon, my intended direction to require Santander to put the mortgage into her sole name will not be necessary – but I will leave it in place in case for any reason the application does not complete.

For the reasons I gave in my provisional decision, I don't think it would be fair to require Santander to compensate Ms G for the additional costs she has incurred. Santander didn't agree to the transfer but then withdraw its offer. Her application passed the preliminary decision in principle stage, but failed when it was given full consideration. And, as I explained in my provisional decision, the evidence shows that it was Ms G's decision – and idea – to repay her unsecured debts before proceeding with an application. This was not a suggestion made by Santander and it did not suggest that doing so would make her application more likely to succeed. Ms G did not therefore repay her unsecured debts in

reliance on anything Santander said or did, and it would not be fair to require it to compensate her for the higher interest she is now paying to a family member.

My final decision

My final decision is that Santander UK Plc should transfer the mortgage into Ms G's sole name and, provided she has reached agreement with the bankruptcy trustee regarding the third party's interest in the property, consent to the property title and Santander's charge over it being transferred into her sole name.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 13 August 2025.

Simon Pugh
Ombudsman