

complaint

Mr and Mrs P are unhappy Santander UK plc has refused to change the interest-only part of Mrs P's mortgage to capital repayment when it reached the end of its term. To resolve the situation they want to Santander to now do this.

background

Mrs P has a mortgage with Santander which she's had for many years. Mr P is a guarantor for her mortgage. While the mortgage is in Mrs P's sole name, Mr P has authority to speak to Santander about it. They've effectively treated the mortgage as a joint one since they took it out. For simplicity I've referred to it as "their mortgage" throughout. By the end of 2014 there were four mortgage accounts. Two of these were on a repayment basis with the terms ending in April 2023. The other two accounts were interest-only with the terms ending in March 2015.

In November 2014 Mr P called Santander to talk about the two interest-only accounts. He and his wife knew they weren't going to be able to repay the outstanding balances when the terms ended a few months later. Mr P and Santander talked about how the accounts could be changed to repayment and how long it would take to clear them. Santander indicated to Mr P that they would have to pay a total of around £355 to repay all four accounts in full over 15 years or around £450 to repay them over 10 years.

Over the following months, Mr and Mrs P and Santander had various conversations about formally converting the interest-only accounts to repayment. By the time the terms expired at the end of March 2015 nothing had been sorted. Mr and Mrs P increased their total monthly payment to £450 at this time.

Conversations between Mr and Mrs P and Santander continued sporadically over the next 18 months. Santander said the mortgage was in Mrs P's sole name and changing the accounts to repayment and extending the term wasn't affordable based on her sole income. It was affordable if Mr P was added to the mortgage and his income also used. But Santander wouldn't add him to the mortgage due to adverse information on his credit file from some years before. Mr and Mrs P complained to Santander in August 2016. They thought the bank was treating them unfairly and didn't understand why there was a problem - especially as they had been paying £450 ever since the interest-only account terms expired. When Santander rejected their complaint, Mr and Mrs P came to us.

Santander told our adjudicator that although Mr and Mrs P were paying £450 each month, this wasn't enough to clear the interest-only accounts by the time the existing repayment accounts were due to end in 2023. It said that to consider extending the term of the interest-only accounts on a repayment basis it would need a better understanding of Mr and Mrs P's circumstances such as her planned retirement age.

Our adjudicator tried to mediate between Mr and Mrs P and Santander. She arranged for the bank to call them to discuss the situation. Santander spoke to Mr and Mrs P in March 2017. It said that changing the accounts to repayment would be affordable if Mr P's income was also used. But there seemed to be some confusion on Santander's part as it believed Mr P was in a debt management plan. The bank told us that even if it could consider adding Mr P to the mortgage, it would be unlikely his debt management plan provider would agree to him becoming liable for a new mortgage debt. But Mr and Mrs P confirmed he wasn't in a debt management plan – he'd just come to informal arrangements individually with his creditors to

clear his debt. But Santander repeated that it was unlikely that Mr P could be added to the mortgage because of the adverse information on his credit file.

After the confusion over whether Mr P was or wasn't in a debt management plan was seemingly clarified, Santander offered to look at extending the term of the expired interest-only accounts for a number of years to give Mr and Mrs P some breathing space. This would be looked at on the basis that if the outstanding balance couldn't be repaid when the extended term ended, Mr and Mrs P would have to sell their house to clear the mortgage. Again, our adjudicator attempted to mediate and arranged for Santander to speak to Mr and Mrs P again.

But when they spoke to Santander in June 2017, the bank only wanted talk about extending the term on a repayment basis, which Mr and Mrs P knew it wouldn't agree to. Our adjudicator told Santander she didn't think it had treated Mr and Mrs P fairly. She pointed out that due to them making increased payments since March 2015, one of the interest-only accounts had now been paid in full. The adjudicator went on to say that Mr P was already a guarantor for the mortgage. She said the best solution would be for Santander to add him to the mortgage, change the interest-only part to repayment and extend the term so that Mr and Mrs P's total payment stayed at the £450 they'd been paying each month. The adjudicator also thought Santander should pay Mr and Mrs P £500 for the trouble and upset they'd been caused.

Santander didn't agree with the adjudicator's view. In response, it asked us to confirm Mrs P's intended retirement age. Mr and Mrs P replied stating that while they'll both receive their state pension when they are 66, they don't plan to stop working until they are 68. Santander then offered to look at extending the interest-only account until Mrs P reached 68 but the interest rate would need to rise to 4.29% rather than the 0.9% over base rate the account is currently on. Our adjudicator didn't think this was a fair offer. But she asked Mr and Mrs P if they wanted to accept or ask an ombudsman for a final decision. They chose the latter.

my findings

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, I've decided to uphold this complaint. I'll explain why.

Mr and Mrs P were fully aware the interest-only parts of the mortgage were due to expire in March 2015. Originally they had an endowment policy in place that they were going to use to clear the outstanding amounts. But when this matured a few years earlier, they realised it wasn't going to be enough to clear the accounts. Also, at that time Mr and Mrs P were self-employed and their business was going through a tough time. So they used the proceeds of the endowment policy to help with the business. It was at this same time that Mr P experienced the financial difficulties that affected his credit file.

But it's clear to me that Mr and Mrs P didn't bury their heads in the sand. Mr P talked to his unsecured creditors. He came to an arrangement with these lenders about how he would clear these debts. From what I can see, he's kept to these arrangements. Then, in November 2014, Mr P spoke to Santander about the interest-only accounts. He and his wife knew the terms were due to end in a few months' time. I'm satisfied that from the outset, Mr and Mrs P wanted to clear these accounts as quickly as they could. On that same call,

Mr P was given an indication of the amount they would need to pay each month to clear the accounts over either 10 or 15 years.

I can see Mr and Mrs P spoke to Santander in early 2015 about changing the accounts to repayment and adding Mr P to the mortgage. But nothing was agreed as they were self-employed at the time and waiting for their accounts to be produced. When the terms ended in March 2015, Mr and Mrs P increased their total monthly payment to £450. This was the figure they'd been told would clear the accounts within 10 years – the shorter period that had previously been discussed. Santander's records show it abandoned the change of borrower application in July 2015. As I've already said, once the terms ended, contact between Mr and Mrs P and Santander over the following 18 months was intermittent. But during this time they continued to pay £450 each month.

When our adjudicator got involved, she tried for some months to help Mr and Mrs P and Santander resolve the situation. But the bank has maintained that as a responsible lender, it has to make sure the mortgage is affordable. Santander says changing the remaining interest-only account (as one has now been repaid in full) to repayment isn't affordable using just Mrs P's income. But it won't add Mr P to the mortgage because of the adverse information on his credit file.

I'm surprised that Santander is unwilling to make an exception regarding Mr P. I've looked at his credit file. The adverse information all seems to be from over five years ago. Added to that, the total outstanding balance of all the mortgage accounts is very low when compared to the value of Mr and Mrs P's property. Finally, the payments of £450 have been made each month since April 2015. But I do accept if Santander doesn't want to add Mr P to the mortgage this is a commercial decision it's entitled to make.

Where I do disagree with Santander though, is when it says although Mrs P has been making increased payments each month, it's on the basis that Mr P is helping her – and it would be an issue if that help stopped. As I said at the outset, Mr P is guarantor for the mortgage. He and his wife have always treated the mortgage as a joint mortgage. Mr P has already covenanted with Santander to make the payments. Changing the interest-only account to repayment doesn't change that. Santander is already able to pursue Mr P for the repayment of the mortgage accounts, irrespective of if he remains as guarantor or is added to the mortgage. Effectively, Mr P's income has been taken into consideration by Santander ever since he became guarantor. And the bank has already told us that if Mr P's income is also considered, the mortgage is affordable if it changed to a repayment basis.

So I don't think it's fair or reasonable for Santander to refuse to do this because of concerns over affordability. I'm satisfied it would be fair for the bank to keep Mr P as guarantor and extend the account on a repayment basis. Keeping the total repayments at around £450 would mean all the mortgage accounts would be due to be repaid before Mr and Mrs P's intended retirement age.

As my decision differs slightly from the adjudicator's view – in that Mr P should continue as guarantor rather than being added to the mortgage – I spoke to Santander to let them know. The adjudicator also told Mr and Mrs P. They replied saying they were happy with this.

Santander responded by again saying that to add Mr P to the mortgage it would need a full application completed including full income and expenditure details. But we've been at this same point numerous times since before the interest-only terms expired without the situation being sorted. The bank also said it would need to consider if adding him to the mortgage

would affect his current debt management plans. I would point out again that Mr P isn't in a debt management plan, nor has he been. Mr P spoke to all his unsecured creditors when he was in financial difficulties some five to six years ago. He discussed how best to clear those debts and has continued to repay them. This was part of a normal forbearance process I would expect any lender to provide. Changing the interest-only account to repayment wouldn't impact these arrangements, especially given Mr and Mrs P have already been paying £450 for nearly two and a half years already.

I do think Santander could have sorted this situation out some time ago. Instead, the situation has dragged on with Mr and Mrs P facing an uncertain future even though they've now been making extra payments for over two years. The calls Santander made to Mr and Mrs P haven't helped. Indeed, the calls seem to have added to their frustration as the bank first mistakenly thought Mr P was in a debt management plan. It then talked about extending the terms on a repayment basis when it was meant to be discussing an extension on an interest-only basis.

Also, Santander wrote to Mr and Mrs P in May 2017 saying, in summary, the outstanding balance was nearly £39,000 and it needed to talk to them as soon as possible. The letter went on to say the bank might consider legal action. But the outstanding balance quoted included the two existing repayment accounts which are due to run until 2023. The outstanding balance on the interest-only account is over £9,000 lower. At one time Santander also suggested the interest rate may have to rise significantly from 0.9% over base rate (currently 0.25%) to 4.29%. As above, this confusion and frustration has continued since I've been involved. When added to the uncertainty of being able to stay in a house they've owned for many years since new, I can understand why Mr and Mrs P have been so distressed by Santander's actions.

In summary, I'm satisfied that it's fair and reasonable for Santander to convert the interest-only part of Mrs P's mortgage to a repayment mortgage keeping the interest rate product the same. Mr P should stay as a guarantor. The length of this part of the mortgage should be extended to a term that means the total of Mrs P's monthly mortgage repayments is as close to £450 as possible – around 90 months according to Santander. It must also pay £500 for the trouble and upset it's caused Mr and Mrs P.

my final decision

My final decision is that Santander UK plc must convert the interest-only part of Mrs P's mortgage to a repayment mortgage as outlined in my findings. It must also pay £500 compensation to Mr and Mrs P. Mr P is to remain as a guarantor for the mortgage accounts.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 30 October 2017.

John Miles
ombudsman