

complaint

Mrs and Mr B complain that Santander UK Plc won't send their house deeds to the Land Registry, so their property can be registered, before they pay off the final part of their mortgage. They would like Santander to explain why it originally led them to believe it would send the deeds to the Land Registry, rather than them having to arrange for this to happen.

background

Mrs B has taken the lead in bringing this complaint to us.

Mrs and Mr B set up a mortgage through Santander in 2002 on an unregistered property. Part of the mortgage Mrs and Mr B took out with Santander was repayment of capital and interest. This was paid off in full in 2010. They also borrowed £27,000 as an interest only loan. Mrs and Mr B paid off most of this in 2011, leaving a balance of £11,000 still owing to Santander. The mortgage should have been cleared by March 2013.

Mrs B has asked Santander to send the deeds to her local Land Registry office so the property can be registered. She's worried if Santander sends them to her or a solicitor they'd have to be resent with a greater risk they might get lost in the post. Mrs B has refused to pay the amount still owing on the mortgage until this has been done.

Santander says this is no longer a service it provides to its mortgage account holders. It says that it couldn't arrange for the property to be registered as this needs to be done by a solicitor. It has accepted that in 2014, Mrs B was told it would send the deeds to the Land Registry. On the basis that this was misleading it has offered Mrs and Mr B £100 for their trouble and upset. It isn't willing to send the deeds to the Land Registry. Instead it has offered to send them either to Mrs and Mr B or a solicitor nominated by them, using registered post and retaining full responsibility for the deeds until they have been signed for. However Santander insists that Mrs and Mr B must clear the money they still owe on the mortgage.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

This complaint is longstanding. In April 2011 Santander says it paid Mrs B the £210 it would cost to get the property registered but this failed to resolve the complaint and the £11,000 remained outstanding.

In its letter to Mrs B dated 24 February 2014, Santander asked them to make the final payment and said:

'we will then be able to discharge your property and forward your deeds to your local Land Registry office. I can confirm we will photocopy them on request free of charge...'

Mrs B says she'd like an explanation as to why it took Santander so long to realise it had made a mistake and why Santander originally didn't acknowledge its letter of February 2014 was misleading. She wants Santander to arrange for the property to be registered *'to protect my position.'*

Santander used to offer the kind of service Mrs B was hoping for but it doesn't any longer. I can understand why Mrs B finds this frustrating, but I accept that over a period of time business practices can change. I think it's unlikely that Mrs and Mr B would have decided not to go ahead with the mortgage if they'd been told at the time it was set up that it would be their responsibility to arrange for their property to be registered.

Mrs B says the Land Registry website makes it clear registration doesn't have to be done by a solicitor. This suggests it's a relatively straightforward administrative procedure. It may be that Santander would normally expect a mortgage account holder to use a solicitor to register a property providing security for a new mortgage in order to minimise the risk of a legal hitch affecting its security. I can't see any reason to ask Santander to take on a task which it no longer does in-house and which it would expect a solicitor to deal with.

Either way, I'm satisfied that it is Mrs and B's responsibility to get their property registered. Nor do I think Santander has acted unreasonably in asking them to pay off the mortgage before it returns the deeds.

I agree that as long as it has the deeds in its possession, Santander is under a duty to take reasonable steps to make sure they don't get lost. But I think it has done this by offering to pay for the deeds to be sent by registered post either to Mrs and Mr B or their solicitor.

Mrs B says she's checked with the Land Registry and it has confirmed, contrary to what Santander has said, that it would accept the deeds if Santander sent them. I have no doubt the Land Registry would process the registration as long as all the paperwork was in order, regardless of whether it was Mrs B, her solicitor or Santander who had sent it in. The issue in this case is whether Santander is under any additional duty to help get the property registered beyond returning the deeds to Mrs and Mr B, once the mortgage has been paid. For the reasons set out above, I have concluded that it is not.

I accept that the letter of 24 February 2014 added confusion to what was already a difficult situation. Santander's error was to give Mrs B misleading information and lead her to expect a service that it could no longer provide. So I think the best way to put this right is to ask Santander to recognise the upset its error has caused Mrs and Mr B. I think they were given the impression that, at the very least, Santander would get the deeds to the land registry. So, on that basis, I think a payment of £150 is appropriate. This recognises Santander's delay in acknowledging that misleading information was given to Mrs B which has clearly caused her ongoing upset.

my final decision

I uphold the complaint in part. I require Santander UK Plc to pay Mrs and Mr B £150 for trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr B to accept or reject my decision before 13 February 2017.

Melanie McDonald
ombudsman