

complaint

Mr and Mrs B complain that Santander UK Plc's conveyancers didn't properly deal with their remortgage application. They want answers and compensation.

background

Mr and Mrs B wanted to remortgage with Santander and move from another lender. They wanted to make an overpayment to the old lender in order to reduce the fees and then start the new mortgage with Santander on 1 August 2016. As the old lender didn't send the redemption statement in time, Mr and Mrs B agreed to delay until 12 August. Mr and Mrs B said that the conveyancers involved (from Santander's panel) didn't take the action to ensure documents were signed by relatives, despite being told in June that the relatives were leaving the country in July. This meant completion didn't happen until about two weeks later. Mr and Mrs B also said that the conveyancers failed to place a restriction over the property until mid-October 2016.

Mr and Mrs B complained to Santander. It said paid £100 compensation as a gesture of goodwill. The agent who appointed the conveyancers who acted on behalf of Santander and Mr and Mrs B said that the old lender didn't send the redemption statement until 5th August, two days after Mr and Mrs B made an overpayment. Completion was agreed to take place on 12th, and while a mistake was made in not checking the identity of the relatives, this didn't delay completion as it was agreed to proceed without the documents as long as certified copies were forwarded later.

The delay was caused by the late revelation that the relatives would be in the property for some time after completion and waivers were now needed, despite Mr and Mrs B earlier saying that no-one aged over 17 with an interest in the property would be living there. The agent also said that the Land Registry was to blame for the error about the registration of the property, but it should've been noticed by the conveyancers. The conveyancers had reduced their fees by £50, but the agent also paid £144, which was the extra interest paid by Mr and Mrs B, as if the relatives' identity had been checked earlier, the problem about the waiver would've been spotted earlier and the mortgage completed 20 days earlier. As nothing happened due to the other issues, no further compensation would be paid.

Mr and Mrs B complained to us. The investigator's view was that Santander hadn't done anything which was unfair or unreasonable. It wasn't responsible for the legal service. Mr and Mrs B disagreed. They said Santander should deal with all issues connected to the remortgage.

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 service can't deal with complaints against conveyancers – the Legal Ombudsman Service deals with such issues. I can only deal with the complaint against Santander.

It's clear that this complaint is not about anything Santander has done. Mr and Mrs B are unhappy about both the service given by the conveyancers (covering both the mortgage and other legal issues) and the time taken to deal with their complaint by both the conveyancers and the agent. Complaints handling isn't a regulated activity which falls within the jurisdiction of this service, so in any event I wouldn't be able to deal with this part of the complaint. And lenders aren't responsible for everything connected to a remortgage.

The conveyancers were acting for both Mr and Mrs B and Santander. They were dealing with three legal issues – the repayment of the old mortgage, the legal issues connected to the registration of the property and its ownership, and the registration of the new mortgage. This service only holds lenders in these circumstances responsible for the actions of its agents for the work connected to the granting and registration of the mortgage. This means many of the points raised aren't to do with Santander. For example, discussions about the time needed between the overpayment to the old lender and the remortgage were for the broker to explain, not Santander. The same applies to the issue about the registration of restrictions.

The delay in completing the mortgage was caused by the need to get waivers from the relatives of Mr and Mrs B. As Mr and Mrs B completed the questionnaire to say no-one aged over 17 would be living in the property, other than themselves, I don't think Santander is at fault when it later became clear the relatives would be living there for some time. But it's accepted that the conveyancers would've found this out earlier if it had carried out the checks earlier.

But I think the compensation offered fairly and reasonably compensates both for the financial loss and trouble and upset caused by the delay. The legal fees were reduced, the extra mortgage interest payments have been paid, and Santander itself has paid £100.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 30 October 2017.

Claire Sharp
ombudsman