

complaint

Mr and Mrs W complain that Santander UK Plc has treated them unfairly over their mortgage.

background

In 2005 Mr and Mrs W took out a 25-year repayment mortgage from Santander. They redeemed their existing mortgage with another provider and raised additional funds to meet their other debts. Their mortgage was arranged through their broker, Flexible Money Management (FFM). In 2013 they made an unsuccessful complaint to the Financial Services Compensation Scheme (FSCS) about the advice they received from FFM.

FFM had also arranged for them a secured second loan with Firstplus. Mr and Mrs W have made a separate complaint to this service about their Firstplus loan.

Mr and Mrs W have made a number of complaints against Santander since 2010 – to which it has responded and given them six months in which to make any complaint to this service. They made a written complaint to this service in September 2012 about the activities of Santander, Firstplus and FFM – and Santander responded with its final response letter in December 2012. They made their current complaint to this service in October 2015.

Unfortunately Mr and Mrs W have suffered from long-term ill health and they formally retired with ill health pensions in 2008/9.

Their complaint includes irresponsible lending, incorrect information on their application form and failure to respond to their complaints.

The adjudicator agreed with Santander that these complaints were out of time, as they had not been referred to us within six months of the final response letter(s) in accordance with our DISP rules. Santander had replied to the mis-sale complaint of September 2012 with its final response letter of December 2012. However, the adjudicator did not think that the complaint we could look at – namely, that Santander had not acted sympathetically to their financial difficulties – should be upheld.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken careful note of Mr and Mrs W's further comments since the adjudicator's letter.

I have considerable sympathy with Mr and Mrs W over their ill health and financial difficulties. However, I agree with the adjudicator that the mis-sale complaint is out of time. There are no exceptional circumstances under the DISP rules which would enable me to consider the complaint out of time, as Mr and Mrs W have been able to conduct ongoing correspondence with Santander throughout the period despite their ill health. Mr and Mrs W have already made an unsuccessful mis-sale complaint to FSCS about the activities of FFM, their broker.

I am satisfied that Santander has acted appropriately in respect of Mr and Mrs W's financial difficulties and their arrears (which were about £5,000). At one time it allowed a temporary conversion to interest-only. It has accepted some errors in its arrears letters and offered the

refund of arrears fee for September 2015 and offered £200 for trouble and upset over failures in its customer service. It has also agreed to suspend legal action while this service considers their complaint. It has received their completed income and expenditure form, which it may require to be updated so that it can work closely with them to avoid any further legal action.

I would hope that the parties will be able to reach a resolution of the future conduct of the mortgage without any further legal steps, taking into account that there remains sufficient equity in the property and with due regard to Mr and Mrs W's ill health.

my final decision

The complaint as to mis-sale is out of time.

I do not uphold the complaint as to customer service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 4 April 2016.

Charles Sweet
ombudsman