

## **complaint**

Mr T complained that Santander UK Plc:

- didn't tell him that he could only have a maximum of four months' mortgage payment holiday. He said Santander agreed six months, then went back on this;
- didn't tell him that he could make a minimum payment. Mr T said Santander told him not to pay anything;
- passed his mortgage to solicitors, though it had previously told him it wouldn't.

Mr T wants Santander to take his mortgage back from the solicitor, so he can start paying back his mortgage, paying extra each month to make up the shortfall.

## **background**

In February 2018, Mr T lost his job. He let Santander know, and used savings to pay his mortgage for some months.

In June Mr T rang Santander again. He said it was taking longer than he'd expected to get a new job, and he asked what his mortgage options might be – for example, whether the mortgage could be put onto interest only for a few months. The adviser told Mr T that Santander didn't offer this. But she said that after completing an income and expenditure assessment, he might be able to go onto a reduced repayment plan. Mr T asked if this would affect his credit file, and the adviser said it would. Mr T didn't want to do this, as he didn't want his credit file affected.

In July, Mr T rang again. His mortgage was still up to date, but he explained that his savings were running out. He said he'd been told that there were no options for interest only, or for a payment holiday. He was just setting up his own business and wouldn't get any income for three or four months. He didn't want to go into arrears and wanted to know about the options.

The adviser said that the mortgage would go into arrears, and affect Mr T's credit file, if he couldn't pay the mortgage, because Santander didn't offer interest only or payment holiday options. Mr T was very keen to sort things out. But he didn't yet have confirmation of the benefits he'd applied for two months earlier, so the adviser said she couldn't sort out a solution straightaway. They went through part of an income and expenditure assessment.

Mr T rang back on 24 July when he had the benefit information, and he provided details to complete the assessment. This showed he had a monthly deficit of around £3,500.

Mr T asked what the options would be. He said he wanted to pay as little as possible over the next three to four months, then make up for it when he started work again. The adviser told Mr T it wasn't affordable for him to make any payments at all until he started to receive an income, so Santander would make an agreement for him not to pay anything for the next three to four months. She warned him that what wasn't paid would be reflected in his credit file, and he'd be charged interest. The adviser also said that if Mr T's new business and income didn't pick up by December time, it would depend on his circumstances whether Santander could extend this or not, or whether it would have to be referred to litigation if there wasn't an end in sight to Mr T's financial difficulties. She told Mr T the arrangement meant he wouldn't receive calls or letters, or be charged the £40 monthly fee, but he would be charged for the extra interest.

Mr T asked about litigation and the adviser said this normally started after three months without any arrangements or plans in place. So this would be reviewed in December. Santander sent Mr T a letter which said it had been established that Mr T wasn't able to make any payments towards his mortgage account, and that it had arranged for the account "*to be held for the agreed time.*" The letter didn't say how long that was.

In late October, Mr T rang Santander again because he'd had an arrears letter. He said he thought it had been agreed that there was an arrangement in place until the end of November. The adviser told Mr T that it appeared no arrangement had been put in place, which was why he'd had the arrears letter. They went through Mr T's current situation. The adviser suggested that a free debt advice organisation might be able to provide advice, and said she'd put his mortgage account on hold for 7 days until Mr T rang back with a reference number from the charity. She said Santander would extend the breathing space beyond that if necessary.

Mr T said that he'd been told the arrangement had been put in place to the end of November. He took the details, and the adviser emphasised it was important that he should ring back, or calls, letters, and arrears charges might start, and because of the level of the arrears there might also be litigation.

Mr T rang back with the reference number the debt advice had given him. The adviser said Santander would hold the account for another 30 days, until 2 December. Mr T asked for a hold until February. The debt charity had told him that, because everything was under control at the moment and he had a plan, with his new business, it couldn't help him. Santander's adviser accepted this and said Mr T should ring to update the bank in December, then they could continue it until January.

In December, Mr T received another arrears letter. He rang Santander again. The adviser asked about Mr T's contact with the debt charity, and expressed surprise the charity hadn't told Mr T to adjust his budget. Mr T said he'd already cut back on outgoings, and he said he wouldn't be able to pay until February. The adviser tried to enter a plan to put the mortgage on hold, but the system said he'd exceeded the maximum. The adviser also queried the debt charity advice, especially when Mr T told her he'd been paying £50 a month towards a credit card. She'd expected the debt charity to have told Mr T to pay only £1 a month towards his other debts. She told Mr T that if he'd been paying £50 a month towards his mortgage, she'd have been able to set up another plan on his mortgage. She asked how much Mr T expected to earn from February, and he estimated it would be £6,000 a month.

The adviser then checked with her manager, and said that Mr T had exhausted all the options. A letter had been sent out a few days before, which Mr T wouldn't have received, saying it was going to legal action. She asked Mr T if the previous advisers had told him there were limits, and he said no, he'd never been told that.

Mr T complained. He said he'd been keeping in touch, and was unhappy that it had suddenly been sent for legal action. The complaints adviser said that Mr T had a zero payment plan for five months, and he'd now reached the maximum so had exhausted all options. He said he was never given the option of paying a reduced amount, perhaps £200 a month – but he couldn't afford the contractual payment of £2,062 a month. The adviser said she couldn't give false hope, but she would look at whether there was any other option. At the moment, it would have to be the full mortgage plus some more towards the arrears. She'd listen to the calls and see whether he was advised there was a maximum of 5 months.

In its reply to Mr T's complaint, Santander said it hadn't been able to find the call where the arrangement had been set up, so it couldn't confirm what had been said. So it had upheld Mr T's complaint about this, and paid him £75 which it said was in the hope of restoring Mr T's faith in Santander. But the letter said that its collections team had said all options had been exhausted, so it couldn't set up another arrangement. It told him that solicitors would be in touch.

Mr T spoke to Santander again in January 2019 and March. In March, he complained to this service. He said Santander:

- didn't tell him that he could only have a maximum of four months' mortgage payment holiday. He said Santander agreed six months, then went back on this;
- didn't tell him that he could make a minimum payment. Mr T said Santander told him not to pay anything;
- passed his mortgage to solicitors, though it had previously told him it wouldn't.

The adjudicator didn't uphold Mr T's complaint. Mr T didn't agree. He said all he wanted was for Santander to take the case back from the solicitor, and for him to start paying back his mortgage with an additional monthly amount to make up the shortfall.

### **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 includes listening to all the call recordings I've described above.

I've set out the different parts of Mr T's complaint in separate headings.

*Complaint that Santander didn't tell Mr T that he could only have a maximum of four months' mortgage payment holiday, but agreeing he could have six months then going back on this*

In the July 2018 call which set up the arrangement, Santander didn't say Mr T could only have a maximum of four months' payment arrangement. But nor did it say he could have six months. What it did was to agree that Mr T didn't have to pay anything for "three to four months," and said that what happened afterwards would depend on circumstances. At that point Mr T hoped that his new business would start to bring him in a good income relatively soon. I think it's unfortunate that Santander's confirmation letter didn't set out what timescale had been agreed, but I find that the timescale was clear in the call. So I don't uphold Mr T's complaint about the information he was given.

Lenders can be flexible about what they allow customers in financial difficulties, and it's right that they can and do adapt to individuals' circumstances. So I wouldn't expect Santander to have a fixed policy about the number of months a concession could last. In Mr T's case, he went into arrears from July 2018 onwards. And the calls make it quite clear that Mr T was really good at keeping in touch with Santander, and keeping it informed. But his monthly mortgage payment was high at over £2,000, which meant that the amount of the arrears soon came to a high figure. I also note that in practice Santander didn't send Mr T's mortgage to solicitors within three or four months of the July arrangement. It was much later.

*Complaint that Santander didn't tell Mr T that he could make a minimum payment, but told him not to pay anything*

In the July 2018 phone call, Santander's adviser told Mr T that it wasn't affordable for him to make any payments at all until he started to receive an income. So I find that Mr T was right about this. But the adviser did say, near the end of the call, that if he was able to make any payment going into the last couple of months, he should get in touch. Lenders aren't allowed to pressurise borrowers where the income and expenditure shows a borrower can't afford to make a payment. Mr T's income and expenditure showed a deficit of around £3,500 a month. So I don't find Santander's adviser acted wrongly when she didn't ask Mr T to make payments straightaway.

In some of the later calls – for example in January 2019 – this was clarified further. I consider the January 2019 adviser was clear and helpful to Mr T. When Mr T asked if he should pay something if he could, the adviser said the bank always advised to pay something if a borrower could afford it, but not if it meant not having enough to live. So I find that by the time the original concession had finished, it was reasonable to believe that Mr T would have known he could pay something if he had the means to do so.

I don't have information about Mr T's current financial position. But I understand that as at the end of June 2019, he hasn't made any payment since July 2018 and the arrears are now around £23,000.

*Complaint that Santander passed Mr T's mortgage to solicitors, even though it had previously told him it wouldn't*

In Mr T's March phone call, he said that the January adviser had told him his mortgage wouldn't be passed to solicitors. I have listened carefully to these calls. In the January call, Mr T started by saying he was phoning because he'd been told in December that the mortgage would be passed to solicitors – and he hadn't heard from them. What the adviser replied was that Mr T's mortgage wouldn't have been passed to solicitors because his complaint was still unresolved. But the adviser did go on to say that the account would be reviewed again and that the same situation would happen again "*probably this month.*" I realise that Mr T was relieved that the account hadn't yet been sent to solicitors because of the open complaint. But it was made clear that the account would be reviewed and referred to solicitors very soon. So I don't uphold this complaint.

I appreciate that Mr T made a lot of calls to Santander, and that it was a very stressful situation for him. So it's not surprising that he didn't remember everything that was said during the calls. I consider it would be helpful to send Mr T the phone recordings, at least for July 2018 and January 2019. So I will arrange for the adjudicator to send Mr T copies of these with this decision.

I understand that Mr T was stressed about the situation, particularly it appears that his new business took longer to become established than he'd wanted. He used savings at the start of his period of unemployment, and kept in touch with Santander. But I find that Santander didn't give Mr T incorrect information about the payment arrangement or making a minimum payment. Nor did it pass his mortgage to solicitors after telling him it wouldn't. Mr T's arrears had rapidly built up to a significant sum over many months, and Santander was entitled to refer Mr T's mortgage to solicitors under the terms and conditions of his mortgage.

### **my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 24 July 2019.

Belinda Knight  
**ombudsman**