

The complaint

Mr C complains that Santander UK Plc caused unacceptable delays in deciding whether to offer him a mortgage, then made him pay a large Early Repayment Charge (“ERC”) when he says he was forced to go to another lender.

What happened

Mr C said he’d been a mortgage customer of Santander for several years. In October 2020 he planned to move, and asked about porting his mortgage to a new property. But he was then self-employed, and Santander said it could only take a mortgage application from him if he had two years of self-employed accounts. Mr C said he didn’t have that at the time, so he applied for a mortgage elsewhere, but that purchase fell through.

Mr C sold his house in March 2021, and Santander charged an ERC when he redeemed his mortgage. But by then he said he had the two years of accounts Santander needed, so Santander said he could port his mortgage to the next house he bought, and it would refund the ERC. Mr C also wanted to add his partner onto the mortgage.

Mr C and his partner had an offer accepted on a property later in March, and he went back to Santander to get the mortgage application underway in late March. He said he received a decision in principle quickly, but then the process became very slow, despite his efforts to contact Santander and keep things moving.

Mr C said that some weeks down the line, on 23 April, Santander finally said to him that it wouldn’t go ahead with his application, because it now wanted three years of self-employed accounts, not two. Mr C told us he was in short-term rented accommodation at this time, as his previous purchase had fallen through. He’s explained the circumstances that make this very difficult for his family.

Mr C said he spoke to his broker the next day, after Santander said he couldn’t go ahead, and his broker was able to reinstate the application from October 2020 with a different lender. On 28 April, Santander told him it would consider his application after all, but this would take a further three weeks.

Mr C said he complained about the service, and he says Santander offered £400 compensation for all the delays and time wasted. Mr C said because of the timescales and not wanting to lose another purchase, as well as wanting to make sure his purchase completed before the stamp duty holiday expired. he decided to go with the other mortgage company who were very prompt at securing the offer. He didn’t think that was a matter of choice. So Mr C said he didn’t think it was fair that he had been charged the full ERC in these circumstances.

Santander accepted there were some avoidable delays in Mr C’s application, and it said its agent hadn’t been aware of the upcoming policy changes requiring longer self-employment accounts. It said it had paid him £200 to say sorry.

Our investigator didn’t think this complaint should be upheld. He said Santander would have

to carry out a full mortgage application, because Mr C wanted to add his partner to the mortgage. Although Santander said at first that it wouldn't be able to go ahead with Mr C's application because it now wanted three years' worth of self-employment accounts, it then changed its mind. Our investigator said that suggested Santander recognised it shouldn't have initially refused to proceed with the mortgage application. Santander then booked the first possible mortgage appointment for Mr C.

Our investigator said he understood why Mr C felt his application couldn't wait, but he said that Santander reversed its decision after only four days. And it would still need to process an application. But on 5 May 2021 Mr C decided to cancel the appointment with the mortgage advisor. He had obtained a mortgage elsewhere. So our investigator thought it was Mr C's choice not to go ahead, in the knowledge he wouldn't get the ERC back.

Mr C and his partner replied, to say that they didn't think the compensation was fair, when set against an ERC of around £4,000. They said Santander had changed its mind quickly about declining their application, but they were told then (in late April) that it would still take another two weeks, so they said they risked missing out on the stamp duty waiver, missing this purchase, and further upheaval for their family.

Our investigator didn't change his mind. He said the two weeks' timescale Santander provided on 23 April 2021 was reasonable and was in line with what we would normally expect in this type of situation. And Santander had shown it was seeking to prioritise Mr C's application. He said Mr C had enough time to complete before the stamp duty waiver deadline. But he would consider any evidence Mr C could offer about the seller possibly pulling out of the sale.

Mr C and his partner said they didn't have written evidence of that, because this was all done on the phone. Mr C said the seller had accepted their offer on the basis that their mortgage was in place, and they needed to complete urgently, because of the effect that the temporary accommodation was having on them as a family. They provided evidence of this. And they said the seller just wouldn't have waited for the extra time Santander needed to get their mortgage in place.

Our investigator still didn't change his mind. He didn't think Santander did anything wrong or caused any significant delays to the porting application. Because no agreement was reached, this case was passed to me for a final decision. I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I only proposed to uphold it in part. This is what I said then:

I'd like to start by saying that I understand why, in the situation that Mr C has described (which I haven't set out in detail here, but have considered in full) he and his partner decided to change to a different mortgage provider. Around a month had already passed from their offer on the property being accepted, and they didn't yet have a mortgage in place. So I can appreciate why they would prefer to change to a lender who had previously completed a mortgage offer, and was able to reinstate this.

Whilst there were delays from Santander, I'm not persuaded that these delays alone meant that Mr C needed to move to another lender and pay the ERC. I'll explain why.

Mr C began his application with Santander in late March. He had apparently understood before this, that he would need to have two years' evidence of self-employed income,

for his application to go ahead. Mr C went back to Santander, saying that he now had this. And on his mortgage discussion on 26 March, Santander asked for the relevant proof of income from Mr C's accountant.

At the end of this call, the agent said that she couldn't book Mr C's mortgage advisor appointment until she had the proof of income from Mr C's accountant. She told Mr C that if she received the documentation promptly, she could reserve the appointment next week. But it looks, from the information that Santander has shared with us, as if Mr C didn't actually provide proof of the most recent year's income until 16 April.

I haven't seen anything to suggest to me that this is Santander's fault. This may just have been a result of the date when Mr C's accounts are made up.

Santander has accepted that it caused some delays in Mr C's application, and I can see that when it raised queries like Mr C only having one year of accounts, and the concerns about whether two years of accounts would now be sufficient, it did then take a couple of days to consider these issues internally and to revert to Mr C. I also note that Mr C's application was unfortunately made around a week before Easter, and those bank holidays caused a further delay. But even given these delays, it does still seem as if Mr C's application could have been completed in good time, if the documents that Santander had asked for were sent as promptly as Mr C had originally envisaged.

For that reason, although I understand why Mr C and his partner took their decision to pursue borrowing elsewhere, I don't think the total delay I can see here is all Santander's fault. Rather it looks as if the earlier part of the delay may have been caused by Mr C not having all of the relevant documentation at the time of his application, and not being able to send that to Santander until some time later. So I don't think it would be fair and reasonable, in those circumstances, to ask Santander to refund the ERC that Mr C had paid.

Mr C said that Santander had offered £400 in compensation. I can see it has paid him £200, but I cannot see a further offer to increase this to £400. However, I do think Santander accepted it made some mistakes, including its distressing decision to decline Mr C's application because he had only two years of income history in his current role. Although that decision was reversed quite quickly, I think, in the context of Mr C's particular family situation, the delays Santander caused and mistakes it made were always likely to have a greater impact. So I think that Santander should pay a total of £400 in compensation. That will mean Santander would pay a further £200 now, to make the total compensation up to that amount, if it hasn't paid that already.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Only Santander replied.

What I've decided – and why

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

Santander said it would agree to the further payment I'd suggested. Mr C didn't reply.

Neither side has offered any further evidence or argument, and I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that Santander UK Plc must pay Mr C a total of £400 in compensation. Santander UK Plc can count towards that total any money it has already paid to Mr C for this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 January 2023.

Esther Absalom-Gough
Ombudsman