

The complaint

Ms I and Mr I complain that Santander UK Plc failed to deal with their application for a new mortgage correctly and they've lost out as a result.

What happened

Ms I and Mr I approached a broker to help them source a mortgage for a new property they were looking to purchase. The property was to be purchased in joint names with Ms I being the main resident and Mr I, her father supporting the application as the second borrower.

Ms I has a permanent right to reside in the UK and was looking to purchase a property as she settled here. Mr I does not have a permanent right to reside in the UK and is a non UK resident.

The broker Ms I and Mr I approached provided a decision in principle (DIP) for a mortgage amount that met their needs. It said this could be provided with Santander as the lender.

An application was first submitted to Santander via the broker in October 2022 and Santander asked for a number of documents to be provided by Ms I and Mr I. This was all provided but Santander declined the application on 23 November 2022 with concerns over the affordability. Ms I and Mr I were unsure how this could be an issue and they were advised by the broker there might have been an error made with the income and expenditure information Santander relied on.

The application was submitted again with more information needing to be provided to support the application. This application was reviewed by Santander but declined again. It said this was because the application didn't meet its lending policy. This was based on Mr I being a non UK resident with no permanent rights to reside in the UK.

Ms I and Mr I complained to Santander about its failure to highlight this sooner. They feel they've incurred additional costs that could have been avoided had Santander explained after the application was first received that they did not meet its lending policy. They think it is fair that these costs are covered by Santander now.

They feel they have been discriminated against in general with their search for a mortgage being more difficult than it would have been had they been UK applicants and Santander should have been able to give a decision much sooner.

The purchase of the property was completed with savings being used instead of the mortgage, but Ms I and Mr I have asked for compensation to cover additional rent costs they say were incurred as a result of the delay. They feel Santander should retrospectively now accept the application for the mortgage of £150,000 without discrimination and they've asked for compensation to reflect the inconvenience of needing to use savings and compensation for the distress and anxiety of £2500 each – so £5000 in total.

Our investigator looked at this complaint and didn't think Santander had done anything wrong when it assessed the information provided. She explained she couldn't make a

determination on whether Santander was in breach of the Equality Act 2010, but she could consider whether it has treated Ms I and Mr I fairly.

She highlighted the advice provided to proceed with an application with Santander was provided by a broker and not Santander directly. And the broker should have been aware of the lending policy and criteria of any lender it was recommending.

When Santander received the information it required to assess the application, it was entitled to decide whether this met its criteria and risk appetite. She felt this had been applied fairly by Santander and it had not added any unreasonable delay to the process as it assessed the information it had promptly and provided an answer based on this soon after the information was received.

Ms I and Mr I disagreed and said they felt Santander should have done more when it first assessed the application in October/November 2022. They believe Santander should have told them at this point the application would never be successful due to the lending policy and the residency obligations. And they didn't understand how the DIP was produced if this was an issue. Had Santander provided this answer at the time, they could have progressed with alternative plans sooner and avoided additional distress. They also questioned why the case tracker for the initial application indicated proof of permanent residence was accepted.

Our investigator replied to say a lot of what Ms I and Mr I were complaining about appeared to relate to advice or information that she felt was the responsibility of the broker to provide. She said the DIP, although provided didn't give a guarantee of the mortgage being offered and she felt Santander had correctly worked through the information provided on the application. When the initial application had an error with the income and expenditure, this meant the residency status was not assessed. Once this had been overcome Santander assessed this and explained the application was not one it could accept. But this was something she felt the broker should have been aware of when recommending the product.

Ms I and Mr I explained they still wished the complaint to be referred for decision as they felt the DIP was misleading, the eligibility on the residency is straightforward and should have been identified sooner and rejecting the application on affordability does not look reasonable.

The complaint has now been referred to me for decision.

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.

I appreciate the strength of feeling Ms I and Mr I have about this complaint and how they feel Santander has treated them, but I have decided not to uphold this complaint. I know this will be disappointing, but I'll explain why.

The crux of this complaint is whether Ms I and Mr I should have been told sooner that Santander was not a lender that was able to meet their needs. They have highlighted frustration at the difficulty in sourcing a mortgage based on their circumstances and while I acknowledge this wider point, I am only considering the actions of Santander in this complaint. And in doing so, I am considering whether I feel it has treated Ms I and Mr I fairly, taking account of all relevant laws and regulations.

As our investigator has highlighted, Ms I and Mr I sought the advice of a broker when looking for a lender that would meet their needs. Their broker said, based on its opinion, Santander

did meet their mortgage needs and it provide a DIP on this basis. The DIP included the following wording:

“Lending Criteria/Product Terms – Important: Lenders occasionally change their acceptance criteria or in some instances do not declare all of their policies to brokers. A change in lending policy may occur between Decision in Principle and application completion, or an existing policy may not have been disclosed. XX cannot be held liable if the lender recommended decides not to accept your application.”

With this, I think it is made clear from the start that the DIP was not providing a guarantee and criteria could change which could have an impact on a lending decision. And although this highlights if not disclosed to the broker previously, they feel they cannot be held liable for a declined application, I think it is fair to expect the broker used by Ms I and Mr I to have been aware of the residency policy Santander operate. It is a specialist broker in providing mortgages of this type and it is a reasonable expectation to expect it to make a recommendation for a mortgage that is suitable to Ms I and Mr I's needs.

When the application was received by Santander, it is entitled to seek the information it needs to understand whether it is able to provide the borrowing required. This was a relatively lengthy process for Ms I and Mr I and I understand the frustration of needing to go through this when the application was declined and was always likely to be based on Santander's lending policy. But Santander was assessing the information provided as it was asked to do. It did not identify the residency issue with the first application as this did not get to this stage as it was declined for the affordability.

Santander accept the concerns around affordability were due to an error on its part, but I don't think it would be fair to say it should cover the additional costs Ms I and Mr I feel they incurred as a result. A follow up application was not submitted until nearly a month after the initial one was declined and once this was received by Santander, an outcome was provided within a week. And ultimately, the advice to make an application with Santander for the mortgage was based on the advice of the broker who should have been aware it was always unlikely to be suitable to Ms I and Mr I's needs.

My final decision

For the reasons I've set out above, I do not uphold Ms I and Mr I's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms I and Mr I to accept or reject my decision before 15 April 2024.

Thomas Brissenden
Ombudsman