

The complaint

Mr and Mrs S complain that Santander UK Plc treated them unfairly when they asked for a term extension for their mortgage to lower their monthly payments. They say they struggled with their mortgage payments.

Mr and Mrs S ask that Santander extends the mortgage term, refunds their overpayments and compensates them for the financial difficulties this caused.

What happened

Mr and Mrs S's fixed rate product was due to expire in December 2022. They contacted Santander as they were concerned that when the product expired their mortgage payments wouldn't be affordable.

Mr and Mrs S say they contacted Santander in April 2022 and in October 2022 and were told on both occasions that after taking out a new product they could extend the mortgage term, to reduce the monthly payments.

Mr and Mrs S chose a new product in October 2022 which took effect in January 2023. When they contacted Santander about extending the term they were told they needed to make an application. Santander then declined the application, saying this didn't meet affordability criteria.

Mr and Mrs S made a complaint in late 2023. In its response, Santander said it hadn't given Mr and Mrs S full information about extending the term – that this would require an application and income and expenditure review. It paid £200 compensation. Santander went on to say that while it was right to decline the application made in early 2023 on affordability grounds, it could now offer a term extension to Mr and Mrs S. This was due to provisions in the mortgage charter (agreed by the Government, the regulator and lenders to help with the cost of living crisis) which allow it to offer term extensions without the usual affordability checks.

Our investigator said Santander's error had caused worry and stress to Mr and Mrs S. She said Santander should increase its offer of compensation to £400.

Santander agreed. It said it had agreed to extend the term of Mr and Mrs S's mortgage and would back date this to January 2023 and refund overpayments, with 8% interest.

Mr and Mrs S didn't agree. They asked for more information about how the overpayments would be calculated (our investigator has forwarded information from Santander about this). They asked for compensation to reflect the stress and impact of Santander's error, including having to take on additional work during anti-social hours and incurring interest on their credit card account. Mr and Mrs S estimate they incurred losses of £5,000 through having to make higher mortgage payments.

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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

First, I should be clear about what errors I think Santander made.

When Mr and Mrs S asked about a term extension, Santander should have told them there's no guarantee it would agree to this. It should have told them they'd need to make an application and provide income and expenditure information and pass affordability checks.

Santander says it doesn't have a record of Mr and Mrs S calling in April 2022. But it accepts that it failed to give them clear information about the process for a term extension when they called in mid-October 2022.

Mr and Mrs S requested a new product on 13 October 2022 and sent their acceptance on 18 October 2022. Santander didn't assess affordability before offering Mr and Mrs S a new product. It didn't have to do so, so this wasn't an error.

Santander gave Mr and Mrs S correct information in January 2023 when it told them they needed to make an application and provide income and expenditure information. Rules on mortgage regulation require lenders to assess affordability before offering or agreeing to vary a mortgage. Mr and Mrs S wanted to vary their mortgage by extending the term. So Santander had to assess affordability before agreeing to this. It couldn't at that time rely on the provisions in the mortgage charter.

When Mr and Mrs S applied for a term extension in January 2023 Santander said it wasn't affordable. Santander provided its application and underwriters notes to us and I think it assessed the application fairly.

Santander says Mr and Mrs S didn't tell it in early 2023 that they had financial difficulties. I've listened to a recording of Mr and Mrs S's call with the mortgage adviser in January 2023.

Mr S confirmed during the call that they didn't have financial difficulties. Mrs S did say she was concerned about affordability and asked what would happen if the term extension was declined and they struggled with payments. Santander told Mrs S that if they had problems with affordability it could transfer them to the financial support team who could look into their options. Mr and Mrs S continued with the application.

I don't think Santander made an error when it didn't offer Mr and Mrs S support in early 2023. Mr S said they didn't have financial difficulties. Santander made Mr and Mrs S aware that it could offer support if they did have affordability problems.

Mr and Mrs S made a complaint in November 2023. Santander said in its final response letter that it could now offer a term extension without an income and affordability assessment.

Mr and Mrs S contacted Santander in early 2024 about a term extension and Santander agreed to this, and to backdate it to January 2023.

Santander's error was that it didn't make it clear to Mr and Mrs S before they took out a new

product in October 2022 that a term extension might be declined, and that it would require an application process and affordability check.

We asked Mr and Mrs S how they'd have acted differently if they'd been given correct information in October 2022. Mr and Mrs S said they'd have looked into taking out a different product and possibly change lender.

It's difficult now to know what Mr and Mrs S might have done. It's possible they'd have taken advice and looked into re-mortgaging with a different lender. However, I need to take into account that Mr and Mrs S might not have met another lender's affordability criteria. Mrs S's income was complicated by recent tax changes. Affordability would have been affected by rising interest rates in late 2022. Mr and Mrs S might not have been able to secure a better interest rate elsewhere. And there would have been potential costs, uncertainty and inconvenience in re-mortgaging.

Mr and Mrs S told us that, at the start of a financial crisis, staying with Santander made them feel financially secure. Interest rates had increased since Mr and Mrs S took out their previous product, and Mr and Mrs S were concerned to keep their monthly payments as low as possible. Their payments would have been higher if they hadn't taken out a new product. They said they wouldn't have taken out a variable rate product as they wanted a fixed monthly payment to help with their budget. At that time interest rates were increasing, so it's unlikely Mr and Mrs S would have wanted any delay in securing a new product.

Overall, I don't think I can fairly find that Mr and Mrs S would have re-mortgaged or that they'd have been better off if they'd done so. On balance, I think Mr and Mrs S would most likely have still taken out the new product with Santander.

Mr and Mrs S said they struggled with their higher mortgage payments. They worked additional hours, couldn't meet other payments and had to borrow from family and use credit cards. We asked Mr and Mrs S why they'd waited until late 2023 before contacting Santander again. And why they didn't request a term extension in late 2023, when Santander said this was now possible without an income and affordability assessment.

Mr and Mrs S said they didn't know until late 2023 that they had the right to complain about being misled and that this could change the outcome of their application. I appreciate that Mr and Mrs S might not have known they could make a complaint. But Santander had told them that it could discuss options with them if they were struggling with their mortgage payments.

Mr and Mrs S didn't receive Santander's final response letter until December 2023, and they decided to bring their complaint to us. But this didn't mean they couldn't ask Santander about a term extension in late 2023 or early 2024, after it had told them this was possible.

Putting things right

Santander agreed to extend the term of Mr and Mrs S's mortgage. It said it would backdate this so that it takes effect from January 2023 and refund the overpayments (with interest at 8% simple to reflect the delays) to Mr and Mrs S. I think this is fair.

Mr and Mrs S must have been disappointed to have their application for a term extension declined in early 2023. They'd expected this to be a straightforward process. They'd taken out a new interest rate product but, due to interest rate rises since they took out the previous product, their monthly payments increased. Mr and Mrs S were worried about this and were relying on their payments reducing once the term extension was agreed. Santander gave Mr and Mrs S incorrect information about the process for agreeing a term extension and I think it's right that it pays compensation for the additional worry this caused.

But, in fairness, Santander wasn't responsible for all of the worry and difficulty Mr and Mrs S experienced. This was in part due to the increase in interest rates and the cost of living. I appreciate that Mr and Mrs S were upset that Santander didn't agree to a term extension in January 2023, but they could have contacted Santander after this if they were struggling with their payments, to see what support it could offer. I can't fairly require Santander to compensate Mr and Mrs S for them borrowing to meet outgoings, working extra hours or for their on-going worry, when they didn't contact Santander and give it an opportunity to support them.

Taking all of this into account, I think £400 (in total), which is in addition to backdating the term extension, is fair and reasonable compensation for the additional worry caused by Santander's error. Santander's final response letter says it had already paid £200, so it can deduct this from the £400 total.

My final decision

My decision is that I uphold this complaint and order Santander UK Plc to:

- apply the term extension, backdated to January 2023, to Mr and Mrs S's account and refund the overpayments (with interest at 8% simple*) to Mr and Mrs S, as it has offered to do; and
- pay £400 compensation (less the £200 already paid) to Mr and Mrs S.

*If Santander considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs S how much it's taken off. It should also give them a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 29 July 2024.

Ruth Stevenson
Ombudsman