

The complaint

Mr and Mrs D are unhappy that Northern Bank Limited trading as Danske Bank (and referred to here as Danske) declined their request to port (transfer) their mortgage when they were moving home. They incurred an early repayment charge (ERC) of about £7,000 which they would like Danske to reimburse. Mr D has dealt with the complaint throughout.

What happened

I will summarise the complaint in less detail than it's been presented. There are several reasons for this. First of all, the history of the matter is set out in detail in correspondence, and all the parties have their own copies, so there is no need for me to repeat the details here. I will instead concentrate on giving the reasons for my decision. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr and Mrs D being identified. So for these reasons, I will keep my summary of what happened quite brief.

Mr and Mrs D had a mortgage with Danske taken out in February 2020. They borrowed £140,400 on a capital repayment basis, at a fixed rate of interest until 31 December 2024. If the mortgage was repaid within that period, an ERC would be payable, on a tapering scale, starting at 5% for the first two years, down to 2% in the last year of the fixed rate period. The mortgage was secured against a property purchased for £156,000.

In late 2020 Mr and Mrs D wanted to move house and applied to port the mortgage, with additional borrowing. They were looking at a new property costing £245,000 and had a 10% deposit. Danske declined the request, saying it was unaffordable.

However, by February 2021 Mr and Mrs D had an increased deposit for their new property, and had cleared all their previous debts, as a result of an inheritance, leaving them £700 per month better off. On 3 March 2021 Mr D discussed borrowing an additional £67,000 from Danske, and also said he could pay an additional deposit. However, he was told this wouldn't be possible. Mr D asked for the matter to be referred back to another adviser he'd previously spoken to, as he wanted to discuss a porting the same amount as his existing mortgage. However, although the call request was logged, Mr D was never called back.

Mr and Mrs D applied to another lender, which offered them a mortgage. They repaid their mortgage to Danske, and incurred an ERC of £6,890.82.

A complaint was made to Danske about its refusal to port the mortgage, which Danske didn't uphold.

The complaint was brought to the Financial Ombudsman Service. Initially our investigator didn't uphold the complaint. However, after looking at further evidence, she was satisfied the complaint should be upheld. The investigator thought that Danske should have considered a like-for-like port of the mortgage, which would not have resulted in any change to affordability. The investigator noted that Mr and Mrs D would have been able to demonstrate that they had the additional funds available to enable them to meet the balance of their

purchase price. However, they were never afforded the opportunity by Danske to apply for a like-for-like port.

In the circumstances, the investigator thought Danske should reimburse the ERC, plus interest. She also asked Danske to pay £100 compensation for failing to call Mr D back in March 2021 after he'd asked to speak to another adviser about a like-for-like port.

Mr and Mrs D accepted the investigator's findings.

Danske did not, saying that Mr D had never asked for a like-for-like port and that it would never suggest this where the customer needed additional funds to complete a purchase.

Danske agreed "*as a gesture of goodwill*" to pay the £100 for its poor customer service in failing to return Mr D's call.

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.

First of all, I am not looking at issues concerning a further advance for an extension that was applied for (and declined) in 2020, as this isn't relevant to the complaint about the ERC.

Mr D's position is that he asked Danske for a call back so he could discuss a like-for-like port of the mortgage. Danske never returned the call and had already made it clear to him that his application for a new mortgage would not be successful.

The crux of this complaint is whether Danske should have considered offering Mr and Mrs D a like-for-like port of their existing mortgage. Danske has confirmed that, in principle, this would not have raised any issues around affordability. However, Danske also said that, because Mr and Mrs D needed further funds in order to purchase their new property, a like-for-like port wouldn't have been appropriate. In its response to the investigator, Danske apologised if it had missed the point. I think Danske *has* missed the point.

I say this because I think Mr and Mrs D could have gone ahead with the purchase without needing to take on a bigger mortgage. Mr D has provided us with evidence of additional funds available to him and Mrs D that would have enabled them to complete their purchase with a like-for-like port and no additional borrowing. Had he been called back by Danske after he requested this during his phone call on 3 March 2021, Mr D would have been able to explain this to Danske and provide the evidence. But Danske never asked, or offered Mr and Mrs D the opportunity to port their mortgage on a like-for-like basis.

I don't think the fact Mr and Mrs D took on a bigger mortgage with a new lender is relevant. I say this because Danske had made it clear that it wouldn't be offering a new mortgage and so there was no need for Mr and Mrs D to limit their new mortgage to the same amount as their Danske mortgage in order to avoid the ERC of £6,890.82.

In the circumstances, I think the stance Danske took – assuming Mr and Mrs D would need a larger mortgage – blinkered the bank to the point that it didn't consider whether a like-for-like port would be feasible. As a result, Mr and Mrs D were denied the opportunity to avoid paying the ERC. And as I said above, the evidence persuades me that it is more likely than not that Mr and Mrs D would have been able to purchase their new property by porting their Danske mortgage and without the need to take on a larger mortgage, thus avoiding paying the ERC.

Putting things right

I think a fair outcome to this complaint is that Danske must reimburse Mr and Mrs D the full amount of the ERC of £6,890.82, together with interest at 8% simple per annum from the date the ERC was paid until the date of settlement.

If Danske considers that it is required by HM Revenue & Customs to withhold income tax from any interest, it should tell Mr and Mrs D how much it has taken off. Danske should also give Mr and Mrs D a tax deduction certificate if requested, so the tax can be reclaimed from HM Revenue & Customs if appropriate.

The investigator asked Danske to pay £100 compensation for failing to call Mr D back in early March 2021. Danske agreed to this as “*a gesture of goodwill*”. It is very disappointing to see that Danske fails to acknowledge its failings here and only considers it should pay the £100 as a gesture, rather than as a way of putting right its mistakes.

I am directing Danske to pay the £100, not as a gesture of goodwill, but as compensation for its poor customer service. It is not open to Danske to agree to pay compensation I have ordered it to pay “*as a gesture of goodwill*” if Mr and Mrs D accept my final decision, as this will become legally binding on the bank.

My final decision

My final decision is that I uphold this complaint. I direct Northern Bank Limited trading as Danske Bank to settle the complaint as set out above.

This final decision concludes the Financial Ombudsman Service’s review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs D and Mr D to accept or reject my decision before 23 August 2022.

Jan O’Leary
Ombudsman