

## **The complaint**

Mr and Mrs L complained Yorkshire Building Society ("YBS") couldn't offer an appointment for porting their mortgage in the timescale they needed to complete for their new house. And it charged an early repayment charge ("ERC") when they got a new YBS mortgage online.

## **What happened**

YBS has now said it shouldn't have charged Mr and Mrs L an ERC when they redeemed Mrs L's existing mortgage and took out new joint lending for their new home. It said Mrs L was within 120 days of the end of the fixed rate period on her lending, and YBS waives the ERC in these circumstances. So the question here is whether YBS has offered sufficient compensation for what went wrong.

Mr and Mrs L said it hadn't, and they set out for us what had happened.

Mr and Mrs L had an offer accepted on a new home, and were aware from the outset that they had a very tight deadline. They needed to complete in less than five weeks. YBS couldn't offer them a mortgage appointment for two and a half weeks. It said the minimum timeframe, realistically, was six weeks to get a mortgage in place. So they had no option but to apply for a new mortgage online, as that was much faster.

YBS wouldn't offer a faster appointment, and it said it couldn't allow them to port Mrs L's existing mortgage if they were applying online. So they had to pay an ERC of £1,497.86.

Mr and Mrs L complained about having to pay the ERC, and they received two complaint response letters which said YBS hadn't made a mistake. Mr and Mrs L said YBS employed delaying tactics, and passed them from person to person, but they persisted with their complaint, and YBS eventually changed its mind. Mr and Mrs L said they then even had to argue to get the ERC returned promptly, rather than in three to five days' time.

Mr and Mrs L said if they hadn't been so determined, then YBS would effectively have stolen from them. And they were concerned that other people were having to pay the ERC in these circumstances, so they wanted us to check what YBS was doing for other people.

Mr and Mrs L told us they were out of pocket by £1,497.86 for over a month. And they would never have got this money back if they hadn't persisted. They said they had been offered £290 compensation but they refused that. They didn't think it covered the many hours that they spent on this complaint, and the great stress and frustration it caused, at an already stressful time.

In its last complaint response to Mr and Mrs L, YBS said it accepted the service it had provided to them wasn't up to the standard it expects to offer. It had twice told them it had followed the right process. But it said that it hadn't, after all. What it should have done was to offer to add a note to their account confirming that they could proceed with the new application online as normal, and then it would waive the ERC. But it didn't do that.

YBS refunded the ERC, and it said it had agreed to pay this money quickly, given how long it had held it for. It wanted to pay Mr and Mrs L some compensation too. It offered £7.99 for having held their money for a month. And it offered £40 for phone calls they'd made chasing up the issue, £50 for the time they spent on the complaint, and £200 to apologise for the errors made.

YBS also addressed some questions that Mr and Mrs L had raised. It said its online system didn't recognise that Mr and Mrs L had an existing mortgage with it, but there was advice elsewhere on its website about this. It said porting applications do need to be done through an advisor, because they are more complicated, and it simply wasn't able to run two applications alongside each other. And it wouldn't be fair if it had let Mr and Mrs L jump the queue for a mortgage appointment.

YBS set out the interest and ERC they had been charged, and clarified the term of Mrs L's previous fixed rate lending. It didn't seek to justify the ERC, because it said they shouldn't have been asked to pay it. But it explained the overall purpose of an ERC, which is to cover YBS' losses if someone ends a fixed interest rate agreement before the end of its term.

Our investigator didn't think this complaint should be upheld. He said the ERC that Mr and Mrs L paid was in line with Mrs L's mortgage offer from July 2019, and was confirmed in a more recent mortgage statement from 2021. Mrs L had been properly alerted to this.

Our investigator said that porting a mortgage can be complicated. That's why a lender might want this sort of customer to get advice. That was reasonable, although it wasn't helpful for Mr and Mrs L because of the very tight deadlines they were working to. So he said it was right that they were given another option, to apply for a new mortgage online.

Our investigator appreciated that YBS didn't get things right at first, but then it provided a detailed response to their complaint, and later offered further information on how redress had been calculated. Our investigator realised Mr and Mrs L didn't feel this was enough and that they may have lost out had it not been for their persistence. But he said the mistake was identified, and steps were taken by YBS to put things right. He thought the amount offered was fair and reasonable for the issues that have been caused.

Mr and Mrs L thought our investigator had missed the main point, that they would have been £1,497.86 out of pocket if they hadn't persisted. They summarised again the key points of their complaint, stressed the unfairness of this, and reminded us that YBS twice said it hadn't made a mistake. They thought most customers would have given up. And they thought that even if they'd referred their complaint to us, YBS would just have said the same thing to us. It was only because they kept chasing, that they found out the ERC should have been waived as they were within 120 days of the old mortgage ending. They still didn't want to accept YBS's offer.

Mr and Mrs L said they still hadn't received an explanation of why YBS's porting process is so much more complicated than an online process for new applicants. And they said many of YBS's other customers have probably wrongly been charged an ERC in the same circumstances.

Our investigator didn't change his mind. He said he hadn't missed the point that Mr and Mrs L would be out of pocket if they hadn't persisted. But our service can't ask a business to pay compensation because of something that may have happened, but didn't. He thought the payment YBS had offered for distress and inconvenience was fair and reasonable.

Our investigator thought YBS was right to suggest that Mr and Mrs L could access their new borrowing quicker by applying online. And he said that a customer porting a mortgage may be more complex than somebody arranging a new mortgage for a number of reasons, which he discussed briefly.

Our investigator also noted that the role of our service is to resolve individual complaints. If Mr and Mrs L were concerned that this was an issue affecting a large number of YBS customers, they could raise this with the Financial Conduct Authority.

Mr and Mrs L still didn't agree. They wanted an ombudsman to consider their complaint, so this case was passed to me for a final 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 should start by setting out that, as our investigator said, I'm not able to investigate YBS' wider practices in redeeming mortgages. My remit here is only to consider Mr and Mrs L's complaint.

I can understand why Mr and Mrs L felt it was so unfair that they should be asked to pay such a large ERC. They were almost at the end of the fixed rate period on Mrs L's existing mortgage. And they said the outstanding repayments for the remainder of the fixed rate period were actually less than the ERC they were asked to pay.

Mr And Mrs L had an offer accepted on a property with an exceptionally tight completion deadline. YBS couldn't offer them an appointment with a mortgage advisor in sufficient time to be confident that this deadline would be met. I understand that YBS was open about this with Mr and Mrs L. I don't think it was unfair that YBS was busy, and couldn't accommodate an appointment within Mr and Mrs L's exceptionally tight timescales.

Mr and Mrs L also complained that they had to have an appointment with an advisor, rather than just make a porting application online, in the same way that new applicants can apply online. YBS has confirmed that a porting application is complex, and it thinks customers who are porting should be given advice.

I think that's a reasonable approach for YBS to take in these circumstances. Porting can be complicated. Existing lending has to be moved to a new property. New lending also has to be arranged, and as our investigator said, that means people are often left with two different lending products, potentially with different end dates. In addition, in this case, Mr L wasn't on the existing mortgage, and he wanted to be added. I do think it was reasonable for YBS to say that Mr and Mrs L would need to talk to an advisor, to meet all their goals.

Because they had to act quickly, Mr and Mrs L applied for a new mortgage online, redeemed their existing lending, and were charged an ERC. They complained about this, which is understandable. I can see that they had a number of conversations with YBS about this, and it took some time for YBS to realise that its own policy was to waive the ERC in these circumstances, so this ERC should not have been charged.

YBS has now apologised. It has returned the money, and it has offered compensation totalling £297.99. (I understand Mr and Mrs L thought this was a fraction less, but I think this is YBS's offer.)

Mr and Mrs L's complaint is that they had to persist for YBS to change its mind. They said most people would give up, after having repeatedly been told YBS hadn't made a mistake. And they said even if they'd complained to us, YBS could just have said the same thing.

I understand Mr and Mrs L's concerns, and the points that they have raised about how much time they spent on this. And I accept that this would have been stressful for them. But, like our investigator, I do have to bear in mind that Mr and Mrs L did get YBS to change its mind. He was right to say that we cannot base compensation on what might have happened.

I also have to bear in mind that Mr and Mrs L were told in YBS' first complaint response letter, that they could bring their complaint to our service. It was then their choice to persist with their complaint to YBS, rather than ask our service to investigate.

I have considered all the circumstances of this complaint carefully. I don't think it was helpful for YBS to refer to payments being made "*as per FOS guidelines*". But I still think, like our investigator, that the total amount YBS has offered does provide a fair and reasonable outcome to this complaint. I understand that Mr and Mrs L have not accepted this amount, so I will award this now. But I'll allow YBS to count towards this award any monies it has paid, in case they have changed their mind about this more recently.

I know that Mr and Mrs L will be disappointed, but I don't think YBS has to do more than that.

### **My final decision**

My final decision is that Yorkshire Building Society must pay Mr and Mrs L £297.99 in compensation. Yorkshire Building Society can count towards that amount any monies it has already paid to Mr L or Mrs L for this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Mrs L to accept or reject my decision before 16 November 2022.

Esther Absalom-Gough

**Ombudsman**