

The complaint

Mr and Ms S complain about delays when they took advice from an appointed representative of Personal Touch Financial Services Ltd (trading as PRIMIS Mortgage Network) in relation to a mortgage application. Interest rates increased during the delay and they ask for compensation for their additional interest costs.

What happened

Mr and Ms S took mortgage advice from a broker. The broker joined PRIMIS in November 2021, having previously recommended a mortgage to Mr and Ms S while working with another business.

The broker asked Mr and Ms S to sign a declaration so that he could transfer the mortgage product to PRIMIS. However, the application lapsed, and the broker didn't submit a new application on their behalf until February 2022. By that time, the mortgage product he'd recommended had been withdrawn. Mr and Ms S had to take out a product with a higher interest rate.

PRIMIS refunded the broker's fee. Mr and Ms S said this isn't enough. They ask for compensation for the additional cost of the higher interest rate product they took out.

Our investigator said PRIMIS should pay compensation for Mr and Ms S missing out on the lower interest rate product. She said there was enough time between the broker joining PRIMIS and the mortgage product being withdrawn in early January 2022 for an application to have been submitted on behalf of Mr and Ms S.

PRIMIS didn't agree. It said it wasn't responsible for advice given and applications made when the broker worked for a different business.

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.

Mr and Ms S took mortgage advice from a broker in October 2021. He recommended a mortgage with a five-year fixed interest rate product at 1.75%. The broker started an application on Mr and Ms S's behalf on 3 November 2021. The broker says he missed the deadline to provide supporting information to the lender and the application lapsed. The broker joined PRIMIS in mid-November 2021.

A new application was submitted on behalf of Mr and Ms S by the broker – then working with PRIMIS – in February 2022. However, the lender had withdrawn the 1.75% interest rate product and Mr and Ms S had to choose from the products available in early 2022, which had higher interest rates. They took out a five-year product with a rate of 2.19%.

PRIMIS says the industry practice when assessing liability is to work from the date of the advice. It says it didn't accept responsibility for the advice and applications made by the

broker when working for another firm, and if the broker continued to service cases from his previous employer, this would have been under an arrangement between him and that business.

It wouldn't be fair to hold PRIMIS responsible for advice given by a different business. I don't think it would be fair to say that PRIMIS is responsible for the advice given by the broker in October 2021 or for any problems with the application made on 3 November 2021.

But after this, the broker joined PRIMIS. At some point PRIMIS became responsible for the advice given to Mr and Ms S by the broker. PRIMIS says this was in February 2022 when it has records of advice being given to Mr and Ms S. But I think PRIMIS became responsible for the advice and service given to Mr and Ms S from late November 2021.

On 25 November 2021 the broker emailed Mr and Ms S attaching a document which he asked them to "*sign and scan back so I can transfer your product to [the appointed representative of PRIMIS]*". The footers on the email referred to PRIMIS. Mr and Ms S signed and returned the document the next day. I think they'd have reasonably expected PRIMIS to be responsible for the advice and service they received from that point.

PRIMIS says it's not possible for an application to be transferred from one broker business to another. It says the business that the broker worked for when he submitted the application remained responsible. It says the broker would have had a "no poaching" clause with the previous business. But the evidence here shows the broker was in contact with Mr and Ms S about their application after he joined PRIMIS.

PRIMIS will have a process in place when accepting new customers. As PRIMIS doesn't have records relating to Mr and Ms S until February 2022, it seems likely that process wasn't followed correctly in November 2021.

I don't think it's fair to find that PRIMIS isn't responsible for the advice and service given to Mr and Ms S from late November 2021 only because the correct process wasn't followed to record them as customers. As I said, having signed a document to "transfer the mortgage product" to PRIMIS, Mr and Ms S would reasonably have expected PRIMIS to be dealing with their application, and it's clear from their evidence that they thought this was the case. If that wasn't possible the broker should have told them that. The broker's evidence says he looked into transferring the application but didn't go ahead as he couldn't confirm the timescale. Mr and Ms S were told the deadlines were missed due to the broker having Covid-19.

I asked PRIMIS if it knew when the first application would have lapsed. PRIMIS said it didn't have records of the application made on behalf of Mr and Ms S, but it asked the lender for information about its usual timescales. The lender said this is circumstance dependant and it would try and contact the broker before cancelling, but this would usually be at about three weeks from last contact. As the only contact I have evidence of was the application being submitted on 3 November 2021, it seems likely the application would have been cancelled by about 24 November 2021.

Mr and Ms S say the deadline to secure the 1.75% product was 7 January 2022 – I assume this is the date the product was withdrawn by the lender. PRIMIS doesn't dispute this. I think there was enough time between 26 November 2021 and 7 January 2022 for PRIMIS to submit an application on behalf of Mr and Ms S. If PRIMIS's processes required a new fact find, recommendation and suitability letter there was time for this to be carried out. If the lender hadn't already cancelled the previous application and needed authority from Mr and Ms S to do so, this could have been arranged.

The mortgage Mr and Ms S was offered and took out was with the same lender. I haven't been provided with any information to suggest this lender wouldn't have offered them a mortgage if they'd made their application in December 2021 or early January 2022, rather than February 2022.

I think Mr and Ms S missed out on the lower interest rate product due to PRIMIS's failure to follow the correct process in late November 2021 and to submit a mortgage application within a reasonable timescale. I think it's fair for PRIMIS to compensate Mr and Ms S for the additional interest they'll pay as a result.

Putting things right

PRIMIS should:

- calculate the amount of additional interest Mr and Ms S will incur during the first five years of their mortgage as a result of taking out a product with a fixed interest rate of 2.19% instead of a product with a fixed interest rate of 1.75%.
- pay compensation to Mr and Ms S equal to the amount of this additional interest within 30 days of them accepting my decision (if they do).
- provide a copy of its calculations to Mr and Ms S, if they request a copy.

PRIMIS waived its £200 brokers' fee. I think, given its poor service, it was fair to do so.

My final decision

My decision is that I uphold this complaint. I order Personal Touch Financial Services Ltd trading as PRIMIS Mortgage Network to take the steps and make the payment set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Ms S to accept or reject my decision before 24 April 2023.

Ruth Stevenson
Ombudsman