



## **The complaint**

Mr E and Mrs E are unhappy that First Complete Ltd trading as PRIMIS Mortgage Network (Primis) didn't cancel their mortgage application after they had told it they weren't going to continue with the application.

## **What happened**

Mr E and Mrs E approached Primis in April 2021 about a re-mortgage on their property, as they wanted to borrow more money and the fixed rate they were on was due to expire. Primis recommended a two year fixed rate repayment mortgage with a particular lender and Mr E and Mrs E submitted an application to that lender.

Mr E and Mrs E had put on the application form that the value of their property was £150,000, however the lender valued the property at only £120,000. This meant that Mr E and Mrs E couldn't get the deal they applied for. They told Primis they would not be progressing with the application and that they had raised a complaint directly with the lender. Mr E and Mrs E subsequently re-mortgaged with a different lender.

In April 2022, Mr E and Mrs E noticed that their credit scores had fallen. They established this was because the lender that Primis recommended had carried out credit searches on them - because the application had remained open.

Mr E and Mrs E complained to both Primis and the lender about what had happened. As a result of the complaint to the lender, it removed the searches from their credit files.

Mr E and Mrs E's complaint to Primis in June 2022, was that its representative hadn't closed the application down as they had requested. They said this caused them distress and inconvenience needing to resolve the resultant issue with their credit files, for which they thought they should receive some compensation. They also didn't think they'd received the service they should for the fee they'd paid.

Primis didn't uphold the complaint. It wrote to Mr E and Mrs E in August 2022 saying that it didn't think it had done anything wrong and that it had been the lender's decision to keep the application open for what was a surprisingly long time. Primis noted that the lender had tried to contact its mortgage adviser in November 2021 and didn't receive a response other than a 'bounce back' e-mail - because the particular adviser had left. Primis said it was particularly surprising that the lender continued with the application after this point.

Mr E and Mrs E remained unhappy and referred their complaint to the Financial Ombudsman Service in December 2022.

An investigator here reached an opinion and shared it with both parties. They thought the broker fee was payable because Primis had performed its role of advising on and recommending a suitable mortgage product. However, they also thought Primis should have notified the lender that the application was cancelled and they recommended that Primis pay Mr E and Mrs E £75 to reflect the unnecessary distress and inconvenience caused to them.

Mr E and Mrs E responded to say they accepted the investigator's findings. However, Primis disagreed. In summary, it said that insufficient weight had been placed on the actions of the lender. It said that the lender had confirmed that an underwriter can make a decision to cancel an application, as well as a broker. It reiterated why it didn't think it was reasonable of the lender to have kept the application open for as long as it did.

The investigator still thought the complaint should be upheld. They said that their focus in the context of investigating this complaint, was on the actions of Primis, not the lender. They thought that Mr E and Mrs E had been clear in telling Primis' representative that they wouldn't be continuing with the application and that, on this basis, the Primis representative ought to have informed the lender that Mr E and Mrs E had withdrawn from the application.

Primis still didn't agree. It said it was relevant that Mr E and Mrs E were in direct conversation with the lender, having raised a complaint about the valuation. It said it wouldn't expect an adviser to cancel a mortgage application whilst there was a complaint ongoing – since the outcome of the complaint may have changed things and cancelling the application may have been to Mr E and Mrs E's detriment.

The investigator still thought the complaint should be upheld. They said they'd spoken to Mr E, who had said they had decided not to proceed with the mortgage, regardless of the outcome of the complaint to the lender.

As the matter couldn't be resolved, it has been passed to me to decide.

### **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.

Having done so, I uphold this complaint for largely the same reasons as the investigator.

This case turns on whether it was reasonable for Primis to not inform the lender that Mr E and Mrs E no longer wanted to proceed with the application – after Mr E and Mrs E had told the Primis representative that they didn't want to continue with it.

I don't think it was. I'm not persuaded by what Primis has said about the significance of Mr E and Mrs E having raised a complaint about the valuation directly with the lender. Mr E and Mrs E say they had decided to not proceed with the application, regardless of the outcome of the complaint they'd raised directly with the lender. On balance, I find this to be plausible and persuasive.

Primis' own notes detailing the communications with Mr E and Mrs E at the relevant time clearly document that Mr E and Mrs E had said they weren't continuing with the application. There is no qualification to this – the notes do not say this was subject to the outcome of their complaint with the lender.

Primis' suggestion that the adviser would've thought it inappropriate to cancel the application is speculative and said with hindsight. *If* this is something its representative was thinking about, then at the very least I would've expected the representative to clarify the position with Mr E and Mrs E, rather than ignore their instruction.

Given what Mr E and Mrs E have said about them having decided to not proceed, regardless of the outcome of their complaint to the lender - which is supported by the contemporaneous notes - I think that had the adviser checked with Mr and Mrs E, it's more likely than not that they would've confirmed they didn't want to continue with the application.

As such, I find that Primis' failure to tell the lender that Mr E and Mrs E had decided not to proceed with the application, was a significant contributory factor to the unnecessary distress and inconvenience caused to Mr E and Mrs E from the subsequent credit searches carried out by the lender in 2022. After all, if Primis had told the lender Mr E and Mrs E weren't continuing with the application, the searches wouldn't have happened.

I consider that £75 compensation is fair and in line with our approach to compensation awards.

Primis has focused a lot on the actions of the lender in all of this. It's possible the lender could or should have done some things differently. However, I am considering Mr E and Mrs E's complaint about Primis only.

Going forwards, I would encourage Primis, when investigating any future complaints, to focus more on its own actions when considering whether it has acted fairly, rather than the actions of others.

### **Putting things right**

To put things right, Primis needs to pay Mr E and Mrs E £75 in compensation.

### **My final decision**

My final decision is that I uphold Mr E and Mrs E's complaint about First Complete Ltd trading as PRIMIS Mortgage Network and I direct it to do what I've set out above under 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E and Mrs E to accept or reject my decision before 14 July 2023.

Ben Brewer  
**Ombudsman**