

The complaint

Mrs and Mr S complain that Fairstone Financial Management Limited failed to follow their instructions when arranging a new mortgage and they've lost out as a result.

What happened

Mrs and Mr S applied for a new mortgage using Fairstone as their mortgage broker in late 2020. They were offered two products, a two-year and five-year option. Mrs and Mr S explained they wanted to proceed with the five-year option and asked that the application be completed on this basis.

Fairstone submitted the application but it selected the two-year option in error, so when the offer was returned it was not what Mrs and Mr S had asked for. They requested that Fairstone amend the application to what they had initially requested but say they were told the lender couldn't offer a five-year mortgage on the basis of affordability. The adviser from Fairstone recommended they accept the two-year option and they say this was accepted as they didn't believe they had any other options as no other lenders were presented to them which offered a five-year term.

As Mrs and Mr S's mortgage term was coming to an end in 2022 and they were able to look at new rates, Fairstone contacted them to see if they wanted it to assist with doing this. At this point Mrs and Mr S raised a complaint about Fairstone failing to follow their instructions when the mortgage was first taken out. They explained they were now seeing an increase in what they were paying for their mortgage as interest rates had risen considerably since their application in 2020.

Fairstone looked at Mrs and Mr S's complaint and agreed it had made a mistake when it hadn't submitted the application for a 5-year fixed rate when it first put this through. It set out its calculations on what it considered the loss to be now to Mrs and Mr S. It felt over the course of the five years that they would have been on a fixed rate, Mrs and Mr S would have paid in total, £103,392.56 with their repayments. Instead, based on them moving to a higher rate at the end of the two-year term, they'll pay £110,282.40. This means an additional £6,889.84 will be paid over the same period.

Fairstone didn't offer to refund the total difference. It felt despite there being an error made by it when the mortgage was arranged, Mrs and Mr S were aware of the product they were taking and agreed to this despite having highlighted they wanted to take the five-year rate. So it didn't think it needed to refund everything. Instead, it offered to pay £5000.

Our investigator looked at this complaint and felt Fairstone needed to do more. As it was not in dispute that it had made an error when it failed to follow the instruction of Mrs and Mr S with their mortgage, he felt it was fair that Fairstone pay the total difference in payments to Mr and Mrs S. He also recognised that when interest rates started to increase in 2022, Mrs and Mr S were caused distress as they worried about their future repayment costs and they'd had the inconvenience of needing to raise the complaint with Fairstone to put right the error. For this he recommended Fairstone pay an additional £200 for the distress and inconvenience.

Fairstone accepted that it should make a payment for the distress and inconvenience but it didn't accept that it should increase the refund amount. It explained that it believed Mrs and Mr S had sufficient time between their mortgage offer being provided and their purchase completing, to explore other options. But they failed to do this and accepted the two-year rate. As a result they felt their offer to put things right was fair.

Mrs and Mr S felt the award for distress and inconvenience was too low. They initially accepted this with a view to move on but when Fairstone failed to accept our investigators view, they explained why they felt this should be increased. They said huge amounts of distress and anxiety had been caused when interest rates started to increase and they worried about the cost of their mortgage and what this would be. This impacted their day to day lives and they needed to spend a great deal of time and inconvenience raising this complaint. They feel a payment between £750 and £1500 would be more appropriate for this.

Mrs and Mr S also explained they expected to complete their purchase within a month of the mortgage offer. Delays with the seller increased this timescale but ultimately, they didn't feel they had time to shop around and believed they had no other options when Fairstone had failed to provide them with any confirmation that another product was available after it had said the five years had failed on affordability.

Because both Mrs and Mr S and Fairstone haven't agreed with our investigator, the complaint has been passed to me for 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've decided to uphold this complaint for much the same reasons as our investigator. I know this will fall short of what Mrs and Mr S are hoping for when looking at the distress and inconvenience, but I'll explain why I've reached this decision.

Mrs and Mr S have provided a great deal of information about this complaint and I thank them for this. While I may not comment on everything they've said, I've taken everything into account when thinking about what is a fair and reasonable outcome for this complaint.

- It isn't disputed that Fairstone made an error with the application and it is right that it takes steps to put Mrs and Mr S in the position they would have been in had this not happened.
- Its calculations to decide what this position would have been are a fair way to determine the loss and I see no reason why it should not refund the difference in what Mrs and Mr S would have paid and what they will pay but for the error.
- Mrs and Mr S have paid another product fee when taking out their most recent mortgage and this is within the five-year period. I don't think it is fair to add this to the refund as, regardless of the end date of their mortgage, they would always have likely paid a product fee with any new deal beyond the five-year period. And their current product takes them beyond this.
- When things go wrong there is always an element of distress and inconvenience and I accept that this will have been added to with the turbulent market conditions over the last 12-18 months. I think this will have had an impact on Mrs and Mr S.

- Mrs and Mr S haven't disputed that they were aware the mortgage wasn't what they asked for when they made their application, but I accept why they felt it was right to continue with this as a number of other factors at the time meant being able to purchase their home was their main priority. And I've not seen anything to suggest that Fairstone explained there was another five-year option available to them at the time.
- When rates started to increase it would have been a worrying time but they were aware a mistake had been made. I think Mrs and Mr S could have complained sooner and sought reassurance that they would be put in the position they should have been in.
- Overall, I'm satisfied that the award recommended by our investigator is fair. I appreciate there is a clear link to the error made and the distress Mrs and Mr S felt but I think it is reasonable that they could have mitigated this by raising their concerns sooner.

Putting things right

Fairstone should do the following to put things right:

- Pay Mrs and Mr S £6,889.84, representing the difference in what they will now pay for the first five years of their mortgage when compared to what they would have paid had a five-year product been applied for as it should have been.
- Pay Mrs and Mr S an additional £200 for the distress and inconvenience this matter has caused.

My final decision

For the reasons I've explained above, I uphold Mrs and Mr S's complaint.

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 19 July 2023.

Thomas Brissenden
Ombudsman