

The complaint

Mr S and Mrs S complain that Friends Capital Limited didn't refund a mortgage application fee when they were unable to proceed with the application. Mrs S has dealt with the complaint. She says this has caused her anxiety and worry about being able to cope financially.

What happened

Mr S and Mrs S took mortgage advice from Friends Capital in March 2023. It recommended a mortgage and submitted an application on their behalf. Mrs S paid a non-refundable application fee of £395.

Mrs S says an unexpected change in her circumstances meant she couldn't continue with the mortgage application. She asked that Friends Capital refund the fee.

Friends Capital said the fee was non-refundable and it had undertaken work on behalf of Mr S and Mrs S. It said it could transfer the fee to a new mortgage application.

Mrs S says the fee should be refunded as she cancelled the application due to circumstances outside her control and did so within one working day of paying the fee.

Our investigator said Mr and Mrs S were made aware that the application fee wasn't refundable and they signed the fee agreement. It didn't make a difference that Mrs S cancelled the application the day after paying the fee. Our investigator said she couldn't require Friends Capital to refund the fee.

Mrs S didn't agree. She said when she signed the agreement and paid the fee she had no idea that she wouldn't be able to go ahead with the application. Mrs S said she borrowed the money to pay the fee and can't repay the loan.

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.

When considering if it's fair and reasonable to require Friends Capital to refund the application fee, I need to take the following into account.

- Friends Capital gave Mr S and Mrs S clear information about the fee and that it wasn't refundable. It sent a document headed "our mortgage and insurance services and costs" to them. This says an application fee of £395 is payable on application. The document says the application fee is not refundable if the lender rejects the application or they decide not to proceed after the application is submitted. Friends Capital says it also discussed its fees with Mrs S, including that the application fee wasn't refundable.
- Mr and Mrs S signed the mortgage advice fee confirmation. This sets out the fees that are payable, including the application fee. Mrs S paid the application fee shortly after the

application was submitted.

- Friends Capital undertook work on behalf of Mr S and Mrs S, including a fact find and suitability report and researching the market for a suitable mortgage. It recommended a mortgage and submitted a mortgage application on behalf of Mr and Mrs S.
- Mrs S's circumstances changed unexpectedly soon after the mortgage application was submitted. She couldn't proceed with the application and told Friends Capital this promptly. Mrs S says she had to borrow money from family to pay the fee and can't now repay the loan.

I appreciate that the change in Mrs S's circumstances left her unable to continue with the application. But this wasn't due to any error by Friends Capital. Mr S and Mrs S agreed to pay the application fee and were made aware that it was non-refundable. Friends Capital undertook work on behalf of Mr S and Mrs S. Friends Capital hasn't made an error here or treated Mr S and Mrs S unfairly. While I know Mrs S will be disappointed, I don't think it's fair and reasonable in the circumstances to require Friends Capital to refund the application fee.

My final decision

My decision is that I do not uphold his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 13 March 2024.

Ruth Stevenson
Ombudsman