

The complaint

Mr C and Miss M complain that LDNfinance Solutions Limited (trading as LDNfinance) gave them poor mortgage advice. They ask for compensation for their financial loss.

What happened

Mr C and Miss M wanted to move home and took mortgage advice from LDNfinance.

LDNfinance recommended that Mr C and Miss M apply for a new mortgage. Mr C and Miss M say it didn't advise them to port their existing mortgage or make them aware they might have to pay an early repayment charge (ERC) when they repaid the existing mortgage. As a result, they paid an ERC of about £11,000 and lost the benefit of the interest rate product with their previous lender.

LDNfinance said Mr C had told it there were no ERCs payable and its advice was provided on this basis. LDNfinance said Mr C and Miss M's solicitor should have checked the amount needed to repay the existing mortgage before exchanging contracts. It offered a goodwill payment of £2,000 and to refund its £750 fee.

I sent a provisional decision to the parties explaining why I thought LDNfinance's offer to settle the complaint was fair. Both parties agreed. In the circumstances, I see no reason to change my findings or outcome from my provisional decision – which were substantially as set out below.

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 C spoke to LDNfinance in early April 2022 and it carried out a fact find and issued a recommendation letter. Mr C and Miss M told LDNfinance they wanted a mortgage of about £550,000 for their purchase and would have £300,00 equity available from their sale.

LDNfinance recommended applying for a mortgage with a new lender. LDNfinance says Mr C confirmed there were no ERCs on their current mortgage and advice was given on that basis. Mr C says he doesn't recall being asked if there was an ERC. The copy of the fact find provided to us doesn't record Mr C being asked whether there was an ERC.

LDNfinance submitted a mortgage application on behalf of Mr C and Miss M in mid May 2022 and the new lender issued a mortgage offer on 19 June 2022.

Mr C and Miss M's previous lender issued a redemption statement on 13 July 2022. This was after they'd exchanged contracts, with completion agreed for 18 July 2022. The redemption statement said an ERC of about £11,000 was payable.

Did LDNfinance make an error?

LDNfinance was responsible for gathering information about Mr C and Miss M's aims and

circumstances so that it could recommend a suitable mortgage. I'd expect it to take into account the cost of any ERC, and the possibility of making a porting application to an existing lender.

We can't now know for certain that a porting application would have been successful, as this would depend on the property meeting the lender's criteria and Mr C and Miss M passing affordability checks. However, Mr C and Miss M's previous lender said there was no reason that it was aware of that would have caused it to decline an application.

I appreciate that, if Mr C said no ERC was payable, LDNfinance might have assumed Mr C and Miss M didn't have an active product to port. This would explain, and be consistent with, it not discussing porting with them. However, while LDNfinance says it asked Mr C if there was an ERC, it can't provide evidence to support this.

Why I don't intend to uphold this complaint.

LDNfinance offered compensation of £2,000 and to waive its brokers fee. I don't intend to order it to pay further compensation. This is because, on balance, I don't think LDNfinance is solely responsible for Mr C and Miss M incurring the ERC and losing the benefit of their interest rate product. I should explain that where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

We asked Mr C and Miss M's previous lender for information about their mortgage. In late 2018 Mr C and Miss M took out a 25-year £420,000 mortgage with a two-year product which expired on 30 November 2020. They took out a five-year interest rate product on 7 December 2020. The five-year product had an ERC which was set out in the mortgage offer, in the letter confirming the rate had been applied and in the annual statement sent to Mr C and Miss M in late 2021.

Between late 2018 and late 2020 Mr C and Miss M's mortgage balance reduced by about £53,000 to about £367,000. This suggests they made overpayments. To avoid incurring an ERC they'd have needed to make these payments within their annual 10% overpayment limit, or between the first product expiring and them taking out the new product on 7 December 2020. Given the amount of the overpayments, I think it's likely they'd have checked this before making the payments.

Mr C and Miss M's previous lender issued a digital decision in principle to them in January 2022. This suggests they considered staying with their lender and possibly porting their mortgage, although they didn't go on to make an application to the lender.

Mr C and Miss M's previous lender issued a redemption statement on 4 April 2022. This said the amount required to repay the mortgage on 21 April 2022 would be about £361,000, which included an ERC of about £12,000. The redemption statement was requested by Mr C and Miss M's solicitor in March 2022 for information purposes only. This was before LDNfinance recommended a mortgage to Mr C and Miss M.

It was unfortunate if the solicitor didn't share information about the redemption amount and the ERC with Mr C and Miss M. Mr C and Miss M say they haven't raised concerns with their solicitor, as they say the error was made by LDNfinance. They gave us contact details and consent to get in touch with their solicitor. Our investigator tried to get in contact with the solicitor but they didn't respond.

LDNfinance asked Mr C and Miss M for details of their current mortgage and credit facilities

on 6 May 2022. Mr C says there was an error in the email which they needed to correct urgently and this led to them forgetting to respond to the request for details of the mortgage.

LDNfinance asked again for details of the mortgage later that day. It submitted the mortgage application on 9 May 2022 with details of the mortgage “to be confirmed”.

While LDNfinance could have delayed making a mortgage application until Mr C and Miss M provided information about their existing mortgage, I don’t think it would have been fair and reasonable to do so. Interest rates were rising and a delay could have resulted in Mr C and Miss M missing out on a product.

In fairness, LDNfinance could only offer advice to Mr C and Miss M based on the information it received from them. While LDNfinance can’t provide evidence it asked about the ERC it did provide evidence that it asked for details of their existing mortgage at least twice. It’s unfortunate that Mr C and Miss M didn’t respond to this request as it might have provided an opportunity for LDNfinance to identify the ERC and the possibility of porting their existing product.

Mr C says they were aware of ERCs in principle, but not that this applied to them. As I said, Mr C and Miss M had made overpayments and, most likely, planned these to avoid incurring an ERC. Their previous lender set out the ERC on documents sent to them.

When discussing two, three or five-year fixed rate products LDNfinance said “these products have early repayment charges, which are quite sizeable, during the initial 3/5 years...”.

Miss M and Mr C had taken out a five-year product in December 2020. On 9 May 2022 Miss M asked LDNfinance if the mortgage it recommended had exit fees/additional costs they should be aware of.

I think all this ought to have been enough to prompt Miss M and Mr C to check if they had an ERC. They could have checked their mortgage documents. Or they could have asked their lender or solicitor. If they’d provided information about the mortgage to LDNfinance it could have looked into this for them.

LDNfinance made an error when it either didn’t ask, or didn’t record asking, whether Mr C and Miss M’s existing mortgage had an ERC. It could have asked again for information about their existing mortgage before proceeding with the application. This might have resulted in it making a recommendation that cost Mr C and Miss M less. But taking all of the circumstances into account, I don’t think it’s fair to find that LDNfinance is solely responsible for Mr C and Miss M incurring the ERC and losing the benefit of the lower interest rate.

Based on the evidence currently available, I think LDNfinance’s offer of a goodwill payment of £2,000 and to refund its £750 fee is fair and reasonable in the circumstances. While I know Mr C and Miss M will be disappointed, I don’t think it’s fair and reasonable in the circumstances to require LDNfinance to pay compensation for the ERC or the higher interest rate they are paying.

My final decision

My decision is that LDNfinance Solutions Limited (trading as LDNfinance) should refund its £750 fee and pay £2,000 to Mr C and Miss M as it offered to do (to the extent it hasn’t already done this).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss M to accept or reject my decision before 13 October 2023.

Ruth Stevenson
Ombudsman