

The complaint

Miss N complained that she asked a broker working for First Complete Ltd trading as PRIMIS Mortgage Network (“PRIMIS”) to reserve a rate for her residential mortgage, but the rate wasn’t reserved. Miss N said rates rose, and she’s paying more now as a result.

What happened

Miss N told us that her income stream is complex, so she uses a broker to secure a new mortgage. She said she’d been using the services of a broker working under the umbrella of PRIMIS for some years now. This complaint is about her attempts to secure a new rate for her residential property. At around the same time, she was also seeking to secure a new rate for a Buy To Let (“BTL”) property she also owns, but that mortgage isn’t the focus of the complaint I’m considering here.

Miss N said she told her broker she had seen a two year fixed rate with her existing lender, which she was interested in for her residential property, but she would arrange this herself. She said the broker asked if he could arrange it for her, and collect the commission. Miss N told us she agreed to that.

Miss N said she exchanged messages with the broker on in early June, when the broker said her existing lender was offering 4.55% as a fixed rate. Miss N asked if that rate could be reduced. On 9 June, the broker said that lowering her loan to value would cost a substantial amount, and produce very little change in the applicable rate. He also said he was going on annual leave, for just over a week, and he would “lock something in for you when I get back”. Miss N replied after close of play on the same day, saying she would like to take up the 4.55% rate.

Miss N then checked the position when the broker was back from leave, but unfortunately there was some confusion, and the conversation moved onto resolving Miss N’s outstanding BTL mortgage. Miss N said by the time she realised the residential mortgage rate hadn’t been secured, which was in July, rates had risen, and she faced paying substantially more on her mortgage for the next two years.

Miss N then arranged a new rate, still with her existing lender but through a different broker. She complained, and said she wanted PRIMIS to cover the difference between the rate she’d asked the broker to secure, of 4.55% over two years, and the lowest rate she’d later been able to get herself. (Miss N initially said this was a two year fixed rate of 5.49% with a £999 fee, but has since evidenced that the rate she secured was 5.64% for the same period with the same fee.)

Miss N said this was going to mean her mortgage, already due to increase, would now cost her a very considerable amount more. She wanted PRIMIS to pay the difference between her monthly payments on the rate she could have got, and the payments she was making on the rate she’d ended up with.

Miss N initially agreed to accept PRIMIS’ offer to resolve her complaint, but then changed her mind when she realised PRIMIS was offering substantially less than this. She asked our

service to look into things instead. And Miss N said that she also wanted compensation for the distress this had caused her.

PRIMIS said it accepted something had gone wrong here. It could see that Miss N had asked the broker to lock in the 4.55% rate for her, after he had said he was starting annual leave. The rate was still available on his return from leave, and could have been booked in then. PRIMIS said there was confusion after this, the broker referred to Miss N's BTL mortgage, and Miss N didn't correct him, or bring him back to the residential mortgage she also wanted to resolve. So PRIMIS thought there was fault on both sides.

By the time the mistake was realised, the 4.55% rate was no longer available. PRIMIS said its broker could then have secured a rate of 5.69% for Miss N's residential mortgage, but she'd reserved a rate herself, of 6.00%. PRIMIS offered to pay the difference between these two rates. It wouldn't pay based on the difference between the rate Miss N got, and the rate of 4.55% that she initially wanted.

Our investigator thought this complaint should be upheld. She said Miss N had told the broker she wanted the 4.55% rate to be reserved for her, and Miss N then followed this up on the broker's return from leave. She could see that there was some confusion, and the rate wasn't reserved. Our investigator said she could understand PRIMIS' point of view, because Miss N hadn't set the broker straight once confusion crept in, but she said that ultimately the onus is on the broker as a professional advisor to clarify anything they are unclear on. And Miss N and the broker had been talking about the residential mortgage when Miss N said that was the rate she wanted to reserve.

Our investigator thought it was fair to ask PRIMIS to pay the difference between the rate of 4.55% which Miss N could have secured, and the rate Miss N did eventually secure elsewhere. She also said that PRIMIS should pay £300 in compensation for the distress, inconvenience and loss of expectation caused.

Miss N accepted this, but PRIMIS didn't. It asked for evidence of the rate Miss N had taken up, and once it received this, PRIMIS said it would agree to pay the difference in the monthly payments on the rate Miss N had tried to secure, of 4.99%, and the payments she was making now, on the higher rate of 5.64%. But PRIMIS didn't think it should have to pay compensation too. It said that Miss N would benefit from having the difference in payments upfront. Our investigator didn't change her mind, and because no agreement was reached, this case then came to me for a final decision. I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

I should start by saying that I agree with our investigator, that PRIMIS should pay Miss N the difference between the amount she would have paid per month, on a rate of 4.55% and the rate she secured, of 5.64%. PRIMIS should work out the difference in the monthly payments for the full fixed term of Miss N's current mortgage deal, which I understand runs from 1 November 2023 until 31 January 2026. And PRIMIS should then pay this amount to Miss N as a lump sum, upfront. I think PRIMIS' broker carries the main responsibility for not reserving this rate for Miss N, so I think it's fair to ask PRIMIS to pay this now.

PRIMIS said it would pay this, but it didn't think it should also have to pay compensation in this case. It referred to other cases our service has decided, in similar circumstances, where we have not asked the brokerage to pay compensation too.

Although our service doesn't operate any system of binding precedent, I have previously said, in similar cases, that I do think there is an advantage to the complainant in having a lump sum upfront, to meet the additional costs of a higher monthly mortgage costs over a prolonged period. And I think that's also the case here.

If Miss N accepts my decision, she will receive a lump sum from PRIMIS. That's paid in respect of her additional monthly mortgage costs, and I appreciate that, at the core of this complaint, Miss N is being paid for additional costs she does now face, and indeed is already paying. Costs which she would not have faced if the broker had reserved the rate she wanted.

But I do also have to bear in mind that Miss N is receiving this money upfront. So she then has the choice of how she uses that money. As PRIMIS has said, she can put it in an interest-bearing account, if she wishes, and use the money each month to cover the additional mortgage cost, as well as gaining the interest on the money that remains. Or she can use it to make a lump sum repayment on her mortgage, if she prefers. Or in any other way that her financial situation permits.

I also appreciate that Miss N was caused distress by this complaint. But because I do think that the lump sum payment my decision requires, provides some advantage to Miss N, I don't think it would be fair and reasonable for me to say that PRIMIS also has to pay compensation in this case.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides replied.

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.

Miss N replied, to say that she was happy the complaint was still going to be upheld, but she still thought I should include a payment of compensation. She said things had been going on for nearly a year, so she said we should be taking account of the time she had spent on this, as well as the distressing impact it had. Miss N said she'd had to make changes to her living situation to cover the additional costs she had faced. So she thought PRIMIS should pay at least £300 in compensation.

I do appreciate that this complaint has had a significant impact on Miss N. But I still think the payment of a lump sum, upfront, does have advantages for her. And I also have to bear in mind that, whilst my decision is that PRIMIS is mainly responsible for what went wrong here, it's not solely responsible. Miss N did have an opportunity to catch this mistake, which was unfortunately missed. So I still think the outcome I proposed is fair.

PRIMIS has contacted our service to say it has worked out redress at £5233.03.

Miss N also wanted to know if our service would validate any calculation PRIMIS did. I have no reason to believe that PRIMIS does not carry out its calculations in good faith. But because this decision will be enforceable by a court if Miss N accepts it, the final word on whether this decision has been complied with (including whether PRIMIS has worked out the

right amount) rests there, rather than with our service. That's why my decision below is that PRIMIS must carry out a calculation, and pay the resulting sum.

For the above reasons, I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that First Complete Ltd trading as PRIMIS Mortgage Network must calculate the difference between the monthly payments Miss N would have paid on her mortgage if she had secured a rate of 4.55% and the monthly payments she is making on the rate she secured, of 5.64%. First Complete Ltd trading as PRIMIS Mortgage Network must work out the difference in the total monthly payments for the full fixed term of Miss N's current mortgage deal, from 1 November 2023 until 31 January 2026. And First Complete Ltd trading as PRIMIS Mortgage Network must then pay this amount to Miss N as a lump sum, upfront.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 3 September 2024.

Esther Absalom-Gough

Ombudsman