DRN-5166321

The complaint

Mr and Mrs W complain about how their second charge mortgage (secured loan) lender Elderbridge Limited has treated them. They say they had understood they were about to repay the loan in full, but Elderbridge then told them they owed another £63,000.

What happened

In March 2006 Mr and Mrs W took out a secured loan, borrowing around £73,000 (including fees and insurance) over a term of just under 25 years - ending in September 2030. Elderbridge was not the original lender, taking over in 2016.

Mr and Mrs W say the loan was mis-sold, because at the time it was taken out Mrs W was a student with no income other than a bursary, and because the loan would run until Mr W is 76, after his retirement.

Soon after the loan was taken out, Mr and Mrs W fell into financial difficulty. Mrs W fell ill and had to suspend her studies, losing the bursary income. They could not claim on the associated payment protection insurance because it only covered Mr W. By 2008 the loan was in arrears.

In March 2009 the lender “supressed” interest – by which it means that although interest continued to be charged, it was no longer added to the loan balance. Instead it was added to a separate sub-account. This meant that all of the payments Mr and Mrs W made went to reducing the capital – so reducing future interest charged – and it also meant that interest was now charged on a simple not a compound basis. This meant that the overall borrowing would be cheaper for Mr and Mrs W and they would end up paying the loan off faster than if interest had not been “supressed”.

However, it also meant that that separate sub-account where the interest was charged wasn’t being reduced – because all payments were used to reduce the capital. So while the capital balance reduced over time, the interest balance built up.

Neither the previous lender nor Elderbridge sent Mr and Mrs W statements for a long time. Elderbridge says that this is because this isn’t a regulated loan, so there was no obligation to provide statements.

When the lenders did write to Mr and Mrs W, the letters quoted the main capital balance – but not the interest balance. The same happened once Elderbridge did start sending statements – again, they only included the capital balance, not the interest.

Mr and Mrs W say that they therefore believed that they were on track to repay the loan. By early 2021, they understood they only owed around £21,000 and the loan would be paid off in the next few years.

In July 2023 Mr and Mrs W thought that the loan would be paid off imminently. They called Elderbridge to check the balance and find out when it would end. By this time the capital balance was only around £700.

On that call, Elderbridge told Mr and Mrs W that they also had an outstanding interest balance of around £63,000. Mr and Mrs W were very upset to learn of this and complained. They said they had understood that they had paid off the loan. They had paid more than they borrowed already. So they didn't think it could be right that they still owed another £63,000, and they didn't think they were being treated fairly in being asked to pay this extra amount. And even if this was right, it wasn't fair that they hadn't been told about the additional amount they owed a long time before, when they could have done something about it – leading them to believe they were about to repay their loan. They said that repaying this amount over the coming years will be very difficult for them now that Mr W has retired. Mrs W was planning to retire too in around three years time, but instead is having to work long hours to keep repaying the loan.

Elderbridge said that it was correct that Mr and Mrs W owed this amount. It said that if the loan had operated as it should have done – with Mr and Mrs W making all the payments and never falling into arrears – the total cost of credit would mean that they would have repaid around £183,000 by the end of the term in 2030.

Elderbridge said that when Mr and Mrs W fell into arrears, the balance didn't reduce as expected and extra interest was charged on the higher balance. That would mean that it would take even longer, and cost even more, to repay the borrowing. So to assist Mr and Mrs W the previous lender supressed the interest in 2009. This meant that the arrears, and the balance, reduced more quickly and means Mr and Mrs W will pay less overall. But it doesn't mean they don't have to pay the interest at all.

Elderbridge said that it took the decision to stop charging interest altogether in August 2021, so no further sums have been added to the interest balance since then. But Mr and Mrs W do have to pay the interest balance that built up before then.

Our investigator didn't think that Elderbridge had acted unfairly overall. She said she couldn't look at whether the loan had been mis-sold, because that wasn't part of the complaint originally made to Elderbridge. She thought that Elderbridge's actions had helped Mr and Mrs W bring the loan back under control following the arrears and reduced the amount they would need to repay overall. But she said that Elderbridge ought to have made Mr and Mrs W aware of what it had done and about the level of the interest balance – it wasn't fair that they only learned of it when they thought they had paid the loan off. She said it should pay £200 compensation for the distress and inconvenience caused by finding out they had an extra £63,000 to pay when they thought they had repaid their loan.

Neither party accepted that. Elderbridge said Mr and Mrs W knew they hadn't made all their payments on time so couldn't reasonably have expected their loan to be repaid seven years early. It accepted it hadn't sent statements telling them about the interest balance. But it had tried to engage with Mr and Mrs W about the overall loan position on many occasions without success. Had Mr and Mrs W been willing to engage, Elderbridge would have explained what they owed, looked at their finances and tried to reach an affordable payment arrangement. It didn't agree that compensation was fair.

Mr and Mrs W didn't agree either. They continued to maintain that the loan was mis-sold and should never have been lent to them in the first place. I understand they have now made that complaint to Elderbridge and received a final response.

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’m sorry to hear of Mr and Mrs W’s difficulties and all the problems they’ve experienced. And I’m sure it was very upsetting to learn that – just when they thought they had paid their loan off and could start planning for their retirements – they still had a large balance to pay and several more years to go. I’ll say more about the impact of learning that on them below. But while Elderbridge ought to have done more to make them aware of what was happening, I’m satisfied that Mr and Mrs W have been treated fairly overall.

When they fell into arrears from 2008, Mr and Mrs W’s loan balance started to increase rather than reduce. This was because when payments weren’t made the balance didn’t reduce as expected, and this meant more interest was being charged than would have been the case had payments been made in full.

In situations like that, a loan balance can quickly spiral out of control. Even when the borrower starts making payments again, and clears the arrears, there is still more interest being charged because of the times when payments were missed. If that interest is added to the loan balance, it compounds the effect and means that it can be very hard to get the loan balance back on track – and generally means that higher monthly payments need to be made.

To try to prevent this happening, the previous lender supressed the interest in 2009 – taking it off the main balance. This benefitted Mr and Mrs W in several ways. It meant that every payment they made was used to reduce the capital – so while they weren’t paying off the interest already charged, it meant the interest added reduced every month much more quickly than it would otherwise have done, because the balance was reducing faster than would have been the case had some of the payments been used to pay interest. Secondly, it meant that Mr and Mrs W were only charged interest on the capital balance – not on outstanding interest. This also reduced the amount of future interest that would be added to their loan balance.

The effect of this was that Mr and Mrs W have been charged much less interest, and have reduced their balance by much more, than would have been the case had the lender not done that. Although the unpaid interest balance increased while the capital balance reduced, the overall total that Mr and Mrs W owed was much less than it would have been had the lender not done this.

Under the terms of the original loan agreement, Mr and Mrs W wouldn’t have repaid the capital until 2030. But because their loan was treated in this way, they had paid all the capital off by 2023.

Once Elderbridge stopped charging further interest in 2021, the interest balance didn’t grow either. By the time the capital was paid off in 2023, Mr and Mrs W were paying £730 per month. When the capital was repaid, in August 2023, the interest balance stood at just over £62,000. If Mr and Mrs W continue paying the same amount, £730 per month, it would take them 84 months from then to repay the loan balance in full – taking them to September 2030, around the time the loan would have been repaid had they never been in arrears in the first place. If instead of overpaying they paid the contractual monthly payment of £658 from then on, the loan would still be paid off, a few months later than the original agreement.

I’m therefore satisfied that, overall, Mr and Mrs W have been treated fairly. When they experienced financial difficulty, the previous lender made changes to the loan that substantially benefitted them. Elderbridge made further changes, removing interest altogether, in 2021. Doing so means that Mr and Mrs W have to pay less overall, and will pay their loan off in the same time, than they would have done had they kept to the original loan agreement – and will pay much less than they would have done because of the arrears if no action had been taken.

I'm satisfied that this means that Mr and Mrs W are actually better off than they would have been had no action been taken following the arrears, and also better off than they would have been had the original loan terms been kept to. As a result, I don't think they've been treated unfairly or that an unfair relationship has arisen between them and Elderbridge. I don't think it's unfair that Elderbridge expects them to repay the remaining interest balance over the rest of the term.

I appreciate Mr and Mrs W don't think they should ever have had the loan in the first place. But, as the investigator explained, we're not considering that as part of this complaint because – before we can get involved – Elderbridge has to have had the chance to answer the complaint first. I understand Mr and Mrs W have now complained to Elderbridge about the original lending decision and received a final response. If they want us to look into that, they should let the investigator know.

Putting things right

I've explained that Mr and Mrs W were treated fairly overall, and have not experienced financial loss as a result of anything Elderbridge or the previous lender has done. But I also think that Elderbridge ought to have explained to them what was happening. I don't think it was fair that they were led to believe that they were about to pay off their loan – only to find that they still owed over £62,000. They did owe that money – and shouldn't have been surprised to discover it.

Elderbridge says there was no obligation to send statements, because this wasn't a regulated loan. That's correct, it wasn't. But in my view it's still good practice, and fair and reasonable, to expect it to have kept Mr and Mrs W up to date with the performance of their loan, what they were paying and needed to pay, and what they still owed.

Elderbridge says it did try and contact Mr and Mrs W, and they weren't willing to engage – for example, by not being willing to discuss things over the phone. If they had been, it would have told them then. But in my view that doesn't change the fact that it should have sent them regular updates or statements telling them the true position of their loan. When it did write to them it only quoted the capital balance, not the interest balance.

For the reasons I've said, Mr and Mrs W do owe the outstanding balance and will need to repay it. But they should never have been put in the position of thinking they had already paid it off only to find they owed much more. For the distress that caused, it should pay them £200 compensation.

The lack of notice also meant Mr and Mrs W were unable to take the loan into account when planning for their future. If as a result the payments become unaffordable for them over time, they will need to engage with Elderbridge, and Elderbridge will need to see what it can do to assist them – that will depend on their circumstances at the time, but may include extending the term beyond the loan expiry date to allow them to pay lower amounts each month. But this isn't something I can decide now. It's something to be discussed if and when Mr and Mrs W need that help.

My final decision

My final decision is that I uphold this complaint and direct Elderbridge Limited to pay Mr and Mrs W £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 7 January 2025.

Simon Pugh
Ombudsman