

The complaint

X complains about mortgage advice given to them by Mortgage Intelligence Ltd (MI). they say they were led to believe they could borrow more than they could and made a number of future decisions based on this, which has now caused them a loss.

What happened

X had a mortgage with a lender I'll refer to as S. The mortgage was arranged by MI in 2022 and was on a fixed rate until April 2027. An early repayment charge (ERC) would be payable if all or part of the mortgage was repaid before April 2027.

In 2023, X spoke with MI as they were considering moving property and wished to port their mortgage with S to the new property and avoid paying the ERC. X says they were assured they could do so with no "penalties" to pay. A number of "agreement in principle" (AIP) applications were made by MI on X's behalf to confirm whether the amount X wished to borrow was affordable. At this time, X wished to port the entire mortgage of around [REDACTED] and the AIPs suggested this was available to X.

In July 2024, MI applied on behalf of X to port the entire mortgage balance to a new property X wished to purchase. However, S declined this. It said X hadn't met its affordability requirements. As X was an existing customer, S did agree to provide a mortgage but would limit the amount it was willing to lend at 75% of the property value. A mortgage offer was issued in July 2024 for a mortgage of around [REDACTED]. As this was less than the amount X currently owed, an ERC would be payable on the amount they were repaying and not porting.

The new mortgage completed, and X paid an ERC of around [REDACTED]. X complained to both MI and S. They said they'd based all their decisions on being able to port their full mortgage. X said MI had assured them that they'd be able to transfer their mortgage without an ERC being charged, and they'd made a number of choices and taken financial advice based on this. X said they planned to invest some funds which they now needed to put towards the new property and would lose out on the returns that this would've generated. They were also unhappy that they had to pay an ERC.

Neither MI nor S upheld X's complaint, so they referred both complaints to us. This complaint focusses on MI's actions in this situation. We have another complaint set up against S, which will focus on the role the lender played here. This will be dealt with as a separate decision.

Our Investigator considered the complaint about MI. She didn't think it should be upheld. She said, in summary, that MI couldn't have known that S would limit the amount of borrowing to 75% of the property value. And that MI had made it clear that all of the AIPs provided were subject to lending criteria and affordability assessments. She didn't recommend the ERC be refunded or that complaint be upheld.

X didn't accept this and reiterated the points they'd already made as to why they believed they'd been treated unfairly.

X asked for the complaint to be passed to an Ombudsman. So, it's now with me to consider and make a final 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.

X has brought their complaint to us in great detail. And they've raised many points in their submissions. I want to reassure them I have read and thought about all of the points they've made. I won't respond in the detail they've submitted their complaint to us. Nor will I address every point they've made. Instead, I'm going to focus on what I consider are the salient points I need to address in order to reach a fair and reasonable outcome. I hope X realises I mean no disrespect by this, and it simply reflects the informal nature of this Service.

The crux of X's complaint is that at no point were they told that they might not be able to port the full amount of their existing mortgage, and they were assured that they wouldn't have any charges to pay. They say this led to them making a number of decisions for the future that they now can't proceed with.

I've reviewed all of the correspondence between X and MI that both of them have provided to our Service.

X has pointed to the various AIPs that MI produced for them. An agreement in principle is by its very nature an agreement to consider borrowing, subject to a full application being submitted and considered. I can see MI renewed the AIP a number of times. And I can see why X would've been reassured by this. However, each AIP that MI provided says S *"agrees to consider and assess an application for [the amount applied for] based on the information supplied on your behalf by MI."*

It goes on to state that it is subject to *"Successful completion of our underwriting and affordability assessment of your application"*.

Based on this, I think the AIP clearly set out that no lending was guaranteed at this stage and was subject to further checks and underwriting. An AIP isn't specific to a particular property, so factors such as valuation of the property, and the amount of deposit being put in will all come in to play once a formal application is submitted.

I've also considered the emails between X and MI over the months leading up to them putting an offer on a property. X has pointed to certain emails where MI tells them they can move their mortgage with "no penalties". However, other emails from MI to X in both late 2023 and early 2024 do remind X that porting is still subject to S' lending criteria and affordability assessments. For example, an email from MI on 10 August 2023 to X, when they enquire about the possibility of porting their mortgage, says:

Porting the current deal and retaining the same rate, term and current balance are possible. It's simply a matter of Santander still needing to run their affordability checks, even though you are an existing account holder, so payslips, details of any bonus payments and outstanding credit commitments, if any, will all be required in order for them to do their affordability checks again.

Based on this, I'm satisfied that MI made X aware that porting the mortgage was subject to affordability checks and underwriting, and didn't assure X that the ability to port the full mortgage was guaranteed.

I can see that X took financial advice and made decisions and committed themselves to certain actions based on the belief that they could port the mortgage. However, MI had made it clear that further assessment was required before a mortgage offer would be issued. And the fact that X made decisions and commitments without having a formal mortgage offer in place isn't the fault of MI.

Whilst MI may have been optimistic in its tone when discussing the porting of the mortgage with X, this isn't the same thing as it providing a guarantee that this would happen. Until a full application was submitted, MI couldn't have known whether it would be successful or not. And, as I've said, I think it made this clear.

Turning to the application of an ERC, this was applied by S, so I can't consider the fairness of this being applied here as that will be considered in the complaint against S. What I have considered here is whether MI made X aware of the potential that an ERC may be applied.

Given that all assumptions were made on the basis that X would be porting the full mortgage, the application of an ERC wasn't relevant at the time of the advice being given. And, as such, I don't think MI was required to make X aware of this. Though, I would note that the mortgage offer from 2022 did make X aware of what would happen with regards to an ERC if they were to repay the mortgage in full or in part before the end of the fixed rate.

It wasn't until Santander offered a lower amount of borrowing that the ERC became an issue. At this point, MI clearly told X of their options and that an ERC would apply at this time if they didn't port the entire mortgage balance – something they were unable to do. I understand X says they were emotionally and financially committed to moving at this time and couldn't withdraw from the purchase. But I'm not persuaded that they couldn't have stopped the purchase had they decided they really didn't want to pay the ERC.

X has said the fact that they've had to put in more of a deposit has meant they're not able to benefit from investment gains from that money. As I've explained, this was always a risk that X was taking by making plans prior to having formal lending in place. It's worth noting though, that whilst X might have less to invest, they're also paying less interest as they borrowed a lower amount. Furthermore, I've also noted that there are times during discussions with MI where X talks about purchasing at a higher amount and using more of the equity from their sale. So, I'm not persuaded their investment plans were set in stone at this stage.

X has gone into detail about how the FCA's Consumer Duty Rules have been breached in this situation. Again, I've considered everything that they've said. I won't address each point, but for the reasons given above, I'm satisfied that X has been treated fairly in this situation by MI.

X has said MI hasn't acted in good faith or avoided causing them foreseeable harm, and they haven't had a good customer outcome. And that MI haven't communicated in a clear and fair manner. I've taken account of the requirements of the Consumer Duty in making my decision. I can understand why X considers that they've not had a good outcome, as they've ended up paying an ERC due to not being able to port the whole mortgage amount. However, for the reasons I've explained above, I don't think that's because of anything MI did wrong.

The Consumer Duty doesn't mean that customers will always get the outcome they want or that it will always be the business' responsibility if something goes wrong. It's very unfortunate that X hasn't had the outcome they hoped for when moving house. But I

consider that MI acted in good faith in its handling of their mortgage application, and it couldn't reasonably have foreseen the harm that X has complained about. It explained from the outset that X could port their mortgage, but this was always subject to affordability assessment and underwriting by S. And, when it became apparent S wouldn't agree to what X required, it made them aware of the implications of this. MI gave X enough information to be able to make informed decisions. Customers should also be helped to achieve their financial objectives, but again, this doesn't mean they will always be able to do exactly as they wish. I'm satisfied that MI has communicated clearly and fairly.

Ultimately, I'm satisfied MI did make X aware that no borrowing was guaranteed. And it was their decision to make commitments and proceed with th plans without having a formal mortgage offer in place. Based on this, I'm not going to ask MI to do anything further to resolve this complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 5 August 2025.

Rob Deadman
Ombudsman