DRN-5432681

The complaint

Mr E and Miss S have complained about the mortgage advice they received from Fairstone Mortgage Solutions Ltd in 2022. They say the adviser pushed them into taking a five-year fixed rate product, and the consequences of that weren't fully explained, which led to them incurring an early repayment charge (ERC) when they redeemed the mortgage in 2023.

What happened

Mr E and Miss S had a mortgage with a lender I'll call N. The interest rate on that was fixed until 30 September 2022.

In July 2022 Mr E and Miss S emailed the adviser to say they had been recommended by a friend, and they needed to remortgage as they were coming to the end of their current deal. They said they didn't want to go onto the standard variable rate on 1 October 2022, and they instead wanted to remortgage to release £50,000 of capital to repay a family member that had lent them some money towards the deposit for their property (whether that be with lender N, or a different lender).

After some back and forth between the parties, on 10 September 2022 Fairstone issued a mortgage recommendation report to Mr E and Miss S.

It was recorded that Mr E and Miss S had some recent financial difficulties, which had led to some missed payments and unpaid direct debits, so their best option was to remain with their existing lender. It also noted that due to that and the fact Miss S was in the process of changing her employment lender N wouldn't lend any further funds at that time, but it could be reviewed in six months whether that was with lender N or through a separate secured loan. The adviser recorded that a shorter preferential rate wasn't suitable because Mr E and Miss S wanted to review their finances in five years, and they believed rates were going to increase over the next two years.

In a section titled 'Early repayment charges' the report said there would be an ERC if the loan was redeemed in the five years of the fixed rate, with it setting out the percentage that would be charged on the amount redeemed and potential monetary value of that each year (starting at 4.50% and £6,150 in the first year and dropping to 1% and £1,370 in the fifth year).

A mortgage illustration and mortgage offer were issued, both of which set out the details of the product that had been selected, including the ERC.

In November 2023 Mr E and Miss S sold the property and redeemed the mortgage. In doing so they incurred an ERC of around £6,280.

Mr E and Miss S complained to Fairstone in July 2024 about the advice they were given. They said the adviser presumably received a higher commission for the longer fixed rate term, and there weren't any discussions about a shorter fixed rate term or the implications of it. They said they'd had to sell the property due to some traumatic personal circumstances, and it was only at that time they realised they'd been dramatically misinformed by the adviser.

Fairstone responded to the complaint saying the ERC was clearly set out in the recommendation report and illustrations, and there had been no indication there was an intention to sell the property within the five-year fixed rate period.

Our Investigator didn't uphold the complaint. He said there was no suggestion at the time of the advice that Mr E and Miss S would sell the property the following year, and they'd said at the time that they wanted the security of a longer term fixed rate as they felt interest rates would increase in the next two years. He also said the level of the ERC was set out in the illustration and mortgage offer, as well as in the mortgage recommendation report.

Mr E and Miss S said they wanted the matter reviewed by an Ombudsman as they were not confident in our Investigator's outcome. For that reason, the complaint was passed to me to decide.

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 trust Mr E and Miss S won't take it as a discourtesy that I've condensed this complaint in the way that I have. Although I've read and considered the whole file I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

Mr E and Miss S have mentioned the mortgage adviser may have sold this product to them for financial gain. But as the payment from lender N would have been the same whether a five-year fixed rate or a two-year fixed rate was recommended arguably it would have been in the adviser's interests to recommend a shorter fixed rate as then Mr E and Miss S would have needed to take their next mortgage sooner – that is, in two years rather than in five years.

The recommendation report recorded that Mr E and Miss S thought interest rates would increase over the next two years and they wanted to review things in five years' time. It also doesn't indicate that Mr E and Miss S told the adviser there was a chance they might sell the property within the five-year period. So on the face of it the recommendation for a five-year fixed rate wasn't unsuitable, as the advice can only be given based on the information that is available to the adviser at the time.

Whilst Mr E and Miss S didn't agree with Fairstone's response to their complaint, or with our Investigator's assessment of it, there is nothing on our file from them to say what specifically they disagree with – that is, they haven't said the recommendation report misrepresented the conversations they had, or that they told the adviser they would likely be selling the property. In the absence of any arguments or evidence to that effect, I have taken that information as not being in dispute.

The mortgage offer is the contract that Mr E and Miss S were entering into, and under section 8 it said:

'8. Early repayment

You have the right to repay this loan early, either fully or partially.

Early repayment charges

If you repay all or any part of your mortgage on or before the end of the fixed rate term, you will have to pay an Early Repayment Charge on the amount repaid. Unless permitted under the terms of any incentive set out in Section 9 of this Illustration, if you want to change to a different product, the Early Repayment Charge will also become payable.

As any early repayment payable is calculated by reference to the outstanding balance, if at the time of redemption the outstanding balance is in excess of the outstanding balance shown below (for example because additional fees have been incurred), the maximum charge could be higher than the figure stated below.'

There was then a table setting out the ERC on a reducing basis from 4.5% to 1% over the five years the rate would run for, and cash examples of the ERC which ran from around £6,150 for the first year reducing to around £1,370 in the final year.

That information was also contained within the illustration that Fairstone had issued to Mr E and Miss S earlier in the process. And a similar explanation of the ERCs was detailed within the recommendation report.

I understand why Mr E and Miss S feel so strongly about this, and I have a lot of sympathy for them. But I don't find that Mr E and Miss S were misled, nor do I find the recommendation of the five-year fixed rate was unsuitable for them at the time based on the information recorded. Whilst Mr E and Miss S have said the consequences of the five-year fixed rate weren't fully made clear, I'm satisfied an explanation of the ERC was contained within the recommendation report, the illustration and the formal mortgage offer. If Mr E and Miss S had any questions about that, then they needed to raise them with the adviser at the time.

For the reasons given above I don't consider it appropriate to order Fairstone Mortgage Solutions Ltd to pay all, or part, of that ERC to Mr E and Miss S.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E and Miss S to accept or reject my decision before 24 October 2025.

Julia Meadows
Ombudsman