

The complaint

Miss G and Mr M complain that UK Mortgage Lending Ltd trading as Pepper Money would not agree to postpone its charge in favour of their first charge mortgage lender. As a result they say they were left with no choice but to repay their second charge mortgage with Pepper Money, incurring an early repayment charge (ERC).

What happened

In 2022, Miss G and Mr M took out a second charge mortgage with Pepper Money. It had a fixed rate for five years – and an ERC applied if the mortgage was repaid within the first five years.

In 2024, Miss G and Mr M looked to remortgage their first charge mortgage – increasing their borrowing by £239,000 to repay debts. A deed of postponement (DOP) was requested, so that the increased borrowing would be secured against the first charge. Pepper Money declined the DOP. It said its policy did not allow additional borrowing to rank in favour of its second charge.

Miss G and Mr M repaid the Pepper Money mortgage incurring the ERC. They complain Pepper Money has not treated them fairly:

- The property was valued significantly higher than when the second charge mortgage was agreed.
- Its decision was based on the fact they were borrowing more money – despite the security not being impaired in any way. The decision was not in line with the FCA's Consumer Duty which requires firms to act in good faith, avoid foreseeable harm and to enable and support customers to meet their financial objectives.
- Pepper Money's decision was motivated by its interest in charging the ERC. That disadvantaged them as it meant they could not repay other debts.
- Their personal and family circumstances were not taken into account.

Miss G and Mr M want the ERC refunded.

The investigator did not think the complaint should be upheld. Miss G and Mr M did not accept what the investigator said.

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.

DOP decision

When Miss G and Mr M took out the mortgage with Pepper money they accepted the mortgage conditions. They set out, as relevant:

“7.2 You agree not to do the following without first getting our written consent:

...

7.2.2 Grant any other rights in the Property which might reduce the value of our Security.

7.3 We may refuse our consent under Condition 7.2 or place conditions on our consent:

7.3.1 Where we think our security might otherwise become inadequate; or

7.3.2 On any other ground which is reasonable.”

I consider that the conditions allow Pepper Money to decide whether to agree to a DOP.

Pepper Money has provided an extract of its policy. It says that if a borrower wishes to borrow further funds from their first charge lender, Pepper Money will not agree to that unless they intend to use the funds to reduce or repay their Pepper Money mortgage. So Pepper Money has treated Miss G and Mr M the same as any other borrower in the same circumstances.

Miss G and Mr M were increasing the borrowing on their first charge mortgage by over £290,000. That was more than the increase in the property's value of £120,000 since Pepper Money agreed the mortgage. Therefore, there was an increase in risk to Pepper Money – the proposed amount secured on the first charge would have been a greater percentage of the value of the property. It was reasonable for Pepper Money to take the view that agreeing the DOP would make its security inadequate. That was a legitimate exercise of its commercial judgment. I wouldn't interfere in that as long as I consider it has made its decision fairly in the circumstances.

Once the DOP was declined, Miss G and Mr M repaid the mortgage. I can't see that they appealed the decision or set out any reasons why they were vulnerable or why their personal circumstances meant the decision was unfair. So I can't see that Pepper Money was given an opportunity to reconsider its decision. And nothing Miss G and Mr M have said would lead me to conclude that Pepper Money would reasonably have been required to reach a different decision.

I am required to take into account a number of things in determining what I consider to be fair and reasonable in the individual circumstances of this complaint. That includes the Consumer Duty.

The evidence I have does not support that Pepper Money did not act in good faith or that it declined the DOP so it could apply the ERC. As I have set out, Pepper Money was applying its policy and it was ultimately Miss G and Mr M's decision to repay their second charge mortgage.

While Pepper Money had a duty to prevent foreseeable harm, it did not have a responsibility to prevent all harm. The Consumer Duty says that a product may have inherent risks which a customer accepts by selecting that product. Where a firm reasonably believes the customer accepts and understand such risks it will not breach this duty. I've already found the mortgage conditions set out that it was for Pepper Money to decide whether to agree to the DOP. So I consider it was reasonable for Pepper Money to believe Miss G and Mr M had accepted that risk when they took out the mortgage.

Enabling and supporting customers to achieve their financial objectives does not mean that Pepper Money was expected to go beyond what a prudent firm carrying out the same activity in relation to the same product would do, taking appropriate account of the needs and characteristics of its customers. In my experience the decision made by Pepper Money is not out of line with other second charge lenders. As I have set out, it reflects its legitimate aim to protect its security. And I don't consider what Pepper Money knew about Miss G and Mr M's characteristics would have required it to do anything differently.

I understand why Miss G and Mr M are unhappy that Pepper Money declined the DOP application. But Pepper Money was entitled to make the decision it did and I can't see it was made unfairly.

ERC

The ERC was set out clearly and prominently in the mortgage offer. Miss G and Mr M accepted the ERC when they agreed to the mortgage. So Pepper Money was entitled to apply the ERC. I am satisfied it has done so in line with the contract that Miss G and Mr M accepted.

I understand why Miss G and Mr M believe they were left with no choice other than to repay the mortgage when Pepper Money declined the DOP application. But Pepper Money was prepared to let the mortgage run as agreed. It was Miss G and Mr M's decision to repay it. In those circumstances, Pepper Money was entitled to apply the ERC.

The mortgage was entered into before the Consumer Duty came into place on 31 July 2023. But under the Duty an existing product held by a customer before that date does not require a firm to waive its vested rights. That includes contractual charges payable on termination of the contract. So I don't think the Consumer Duty prevented Pepper Money applying the ERC.

The ERC was a percentage of the amount repaid reducing from 5% in years one and two to 2% in year five. In my experience that is not out of line with the ERC applied by other lenders on five year fixed rate products. So I don't consider Pepper Money has acted unfairly in applying the ERC.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G and Mr M to accept or reject my decision before 11 March 2026.

Ken Rose
Ombudsman