

## **complaint**

Miss T complains about what happened when she ported her Lifetime mortgage with The Prudential Assurance Company Limited in 2011. She's unhappy that she wasn't allowed to port as much of the existing debt as she should, and says this stopped her buying the right property. Miss T's Lifetime mortgage is held on an interest roll-up basis, so no monthly repayments need to be made.

## **background**

Miss T had a Lifetime mortgage with Prudential and was moving property in 2011. She was downsizing significantly and was told by Prudential she had to repay more of the existing debt than she should under the terms of her agreement.

The error came to light in 2014 and Prudential wrote to Miss T to explain. It gave her the option to borrow the extra £32,566.56 on the understanding her mortgage debt would increase by the same amount. Prudential also said it would pay £7,434.81 (net) interest from April 2011 (when the port happened) to October 2014 (when the settlement was made) to take into account that Miss T had been denied the money for that time. Miss T accepted the offer.

In 2018 Miss T complained again. I won't go into detail here about the timeline of that complaint as matters have been protracted, and things have moved on substantially.

In November 2018 Miss T moved house again and ported her Lifetime mortgage. This time she was buying a slightly more expensive property; with a sale price of £315,000 and a purchase price of £327,500. Miss T ported her existing mortgage across and had to fund the difference from her own funds.

The current position is that Prudential has offered to cover the costs of Miss T's 2018 move which it calculated to be £9,702. It said Miss T should let it know of any corrections or additions required, and that interest would be added from the date each cost was incurred to the date of settlement. It also offered £2,000 in compensation.

Our investigator thought Prudential's offer was fair. Miss T didn't agree and so it's been passed to me to decide.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Miss T has set out her account of events in considerable detail. I trust she won't take it as a discourtesy that I've condensed her complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint.

I don't doubt that this is very important for Miss T. But 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. This service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, and I don't act under either's instructions or take directions on how a complaint will be looked at.

Miss T has used fairly emotive words in her complaint, such as illegal, fraud, negligent, duplicitous and deceptive. Whilst I can understand Miss T's emotional connection to this complaint, I have to take a step back and look at things without the emotion involved. And having done so this complaint is much simpler than Miss T thinks it is.

Prudential made a mistake in 2011 when it told Miss T she could only port £78,000 rather than £110,566. Prudential proactively admitted to that mistake in 2014 and contacted Miss T to ask what she wanted to do to put it right. It said she could now borrow the extra £32,566, on the understanding her mortgage debt would increase by that much and Miss T accepted that offer. The £32,566 was released to Miss T and a further £7,434 was paid to take into account the interest Miss T would have earned had she invested that sum in 2011.

Miss T has said

*"Firstly the money returned to me was my money which was transferred at my request to my outstanding Lifetime Mortgage and is now being charged at 7.37% interest rate so, no loss to the Pru.*

*Secondly, they would have received interest on my money before it was returned to me so the payment of £7,434.81 again, was no loss to the Pru!!"*

Redress is not intended to be a loss to the business. Instead it's designed to put the consumer back in the position (as far as possible) they would have been in had the error not occurred.

Miss T should have been allowed to port £110,566 in 2011 (rather than £78,000). Had that happened Miss T would have had an extra £32,566 "in her pocket" in 2011 to invest, but her mortgage debt would have been £110,566 (rather than £78,000) and that extra amount would have been incurring interest at 7.37%. The payment of interest totalling £7,434 compensates Miss T for the fact she didn't have that £32,566 in her pocket until October 2014 (rather than April 2011). But Prudential hasn't backdated the extra £32,566 in mortgage debt, which it should have done, so Miss T is actually significantly better off financially as she's not incurred the 7.37% interest roll-up on that amount for the same period.

Miss T could never have had the £32,566 in her pocket without her mortgage increasing by the same amount. So the 2014 redress actually put Miss T in a better position than she would have been in had things not gone wrong in 2011 as she now had the extra £32,566, had been paid backdated interest on it but hadn't been charged backdated mortgage related interest on it. The best way for Miss T to think about it is that is nothing had gone wrong in 2011 she would have ported a £110,566 mortgage and incurred 7.37% roll-up interest on that entire debt from that point. She would have had an extra £32,566 in her pocket but would have had to have found a way to earn 8% simple per annum on that sum to even match the amount of interest Prudential has paid her in compensation.

Miss T now says she would have bought a house in 2011 rather than a flat had she been given the correct information. Whilst I've given careful consideration to that point I'm not persuaded by it. All the contact notes refer to Miss T only looking at flats in 2011. Miss T has said that's because she'd been told the maximum amount she could port, but having looked at the market in the area at the time Miss T could have bought a house (that didn't need extensive work, as Miss T has claimed) rather than a flat if that's what she truly wanted.

As I've said, Miss T has told us she would have bought a house rather than a flat in 2011 which meant she wouldn't have needed to move again. When considering any complaint like this, as Miss T is the one bringing the complaint against Prudential, to uphold the complaint Miss T's version needs to be *more likely* than Prudential's version; not *just as likely*. Having considered everything I can't say Miss T's version is anything more than *just as likely*, which isn't enough for me to uphold this part of her complaint.

Miss T has also said the first flat she wanted fell through due to the loan to value porting restriction. She said Prudential denied her the opportunity to purchase the property and the level of facilities in the first flat would have provided for her future, But that's not correct. The first purchase fell through because the surveyor significantly down-valued the property as Miss T had put an offer in at £272,000 but the surveyor said it was only worth £240,000. That's nothing to do with the loan to value restriction; instead it was that the surveyor thought the property wasn't worth as much as Miss T had offered to pay.

All that said, Prudential offered to cover an estimated £9,702 towards Miss T's moving costs for 2018 plus £2,000 compensation. Since then Prudential has increased that offer further. I don't make any findings on the extra costs Miss T wants to claim as the offer isn't one I would have ordered Prudential to make. So it would be wholly inappropriate for me to now order Prudential to increase its offer. Had this complaint come to me without any offer relating to the 2018 moving costs then I wouldn't have made any award. This is because I'm not persuaded it's more likely than not that Miss T would have made a significantly different decision in 2011 had things not gone wrong. I consider the offer from Prudential is a very fair one and I would suggest Miss T seriously considers accepting it.

### **my final decision**

I uphold this complaint but only insofar as I consider The Prudential Assurance Company Limited has made fair offers to resolve this complaint. I leave it to Miss T to decide if now – on reflection – she wants to contact Prudential directly to accept those offers.

My final decision concludes this service's consideration of the complaint, which means we'll not be engaging in any further consideration or discussion of the merits of it. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 19 January 2020.

Julia Meadows  
**ombudsman**