

complaint

Mr and Mrs T complain that they were not aware that they would be charged fees if they transferred their mortgage to a new property and would like these refunded. They also consider that The Prudential Assurance Company Limited caused unnecessary delays in agreeing to the transfer.

background

Mr and Mrs T asked if they could transfer their mortgage when they moved to a smaller property in 2012. Prudential agreed that they could, and it charged various fees to do this. Mr and Mrs T say that the fees charged were excessive for a port and they were not told about them in advance. They also said that Prudential took far too long to agree, which caused them distress and inconvenience at an already stressful time in their life.

our adjudicator's view

The adjudicator did not recommend that the complaint should be upheld. She concluded that the fees were correctly charged in accordance with the terms of the mortgage and that the mortgage was ported within five weeks, which was an acceptable timescale.

Mr and Mrs T responded to say, in summary, that the fees were outrageously high and the same as they would be for a new mortgage, when there is less work involved for a port.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr and Mrs T and to Prudential on 30 July 2013. I summarise my findings:

1. All the documentation for the mortgage was sent to Mr and Mrs T's solicitor in 2005 and it was his or her responsibility to ensure that they understood all the terms.
2. I was satisfied that the costs of porting the mortgage were clearly set out in the mortgage terms and conditions.
3. Mr and Mrs T accepted that they should pay the valuation and funds transfer fee, but disputed the arrangement and charge release fees. I found that the charge release fee was a legitimate cost and Prudential was entitled to charge it.
4. The terms stated that the application fee that applied at the time of the original mortgage will apply to any request to transfer the mortgage to a new property. The key facts said that the application fee was £595, with £195 being an administration fee and the remaining £400 was refundable before the start of the mortgage. I considered that Prudential should therefore refund £400, with interest.
5. I was satisfied that the mortgage was transferred within five weeks of Mr and Mrs T's original request and this was reasonable.
6. I considered that Mr and Mrs T had spent some time pursuing their complaint, which warranted a compensation award of £100.

Neither Mr and Mrs T or Prudential agreed with my provisional decision.

Prudential responded to say, in summary, that the £400 was refundable only if the customer withdrew the application or it declined to make an offer. As the application proceeded the £400 was payable. Consequently, it did not consider that any compensation was appropriate.

Mr and Mrs T said that at no time before they took out the original mortgage were they told that the mortgage was portable or what the costs of porting would be. If they had known, they would not have taken out the mortgage. They also disagree that it took less than five weeks to complete the transfer of the mortgage and say that Prudential's solicitors took seven weeks, and this caused them unnecessary stress.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. The further representations that Mr and Mrs T and Prudential have each made do not alter my opinion about what would be the fair outcome to this complaint.

Mr and Mrs T have said again that they were not told about the porting prior to originally taking out the mortgage and, if they had been then they would not have proceeded. However, I find that the mortgage agreement was sent to their solicitor and it was his or her responsibility to ensure that Mr and Mrs T fully understood all the terms before they signed. If they were not happy with anything, then I consider that they should have raised their concerns at that time.

Further, whilst Mr and Mrs T say that they first contacted the Prudential in January 2012, the formal request to port the mortgage was made in early February and the transfer was completed in early March. I fully understand that Mr and Mrs T found this to be very stressful but I am not persuaded that it was not completed within a reasonable timescale.

I accept the comments made by Prudential about the application fee only being refundable if the mortgage did not proceed.

However, I find that the mortgage offer clearly states that "*...An Administration fee of £195 is included in the arrangement fee and is not refundable. The rest of the fee is refundable prior to the start of the mortgage*". It is not clear that this is only if the mortgage does not proceed.

my final decision

My final decision is that I uphold this complaint in part. In full and final settlement, I order The Prudential Assurance Company Limited to pay Mr and Mrs T:

1. £400, being the refund of the Application Fee
2. Interest on £400 at an annual rate of 8% simple from 9 March 2012 to the date of settlement. If Prudential considers it has to deduct tax from the interest element of my award, it should send Mr and Mrs T a tax deduction certificate when it pays them. They can then use that certificate to try to reclaim the tax, if they are entitled to do so.
3. As an alternative to 1 and 2 above, if the Application Fee was charged to the loan, then it should be refunded and the mortgage re-worked accordingly. (In this case, number 2 above will not apply).

4. £100 for the distress and inconvenience this matter has caused.

Karen Wharton
ombudsman