

## **complaint**

Mr and Mrs K complain about the early repayment charge ('ERC') which The Prudential Assurance Company Limited ('Prudential') applied when they redeemed their mortgage.

## **background**

In March 2008 Mr and Mrs K took out a lifetime mortgage with Prudential on their existing home (where they had moved in 2006). At the time they were in reasonable health, though they both received disability living allowance.

In early 2012 – due to concerns about their declining health – Mr and Mrs K inquired of Prudential as to porting their mortgage to a retirement property of lesser value. As Prudential (with whom they would have preferred to stay) could not offer them a sufficient loan for the proposed new purchase, they obtained a lifetime mortgage from a different lender. They first had to redeem their Prudential mortgage and pay an ERC in excess of £10,000 before completing their new purchase in April 2012.

Mr and Mrs K complain that in February 2012 Prudential gave them a redemption figure over the telephone without any mention of the ERC. It was only when they received the redemption statement in February 2012 and March 2012 that they learnt of the ERC (as well as a modest charge release fee). They say that in February 2008 they had been informed at a meeting with Prudential's representative – before taking out the lifetime mortgage – that any ERC would be approximately £2,000/£2,500. If they had known of the size of the ERC in advance, they would not have entered into a contract to purchase their retirement property.

The adjudicator did not recommend that their complaint be upheld. He concluded that the telephone call of February 2012 between Mr and Mrs K and Prudential concerned porting their mortgage rather than remortgaging with a different lender – and therefore the issue of any ERC payable would not have arisen. Mr and Mrs K were aware of the ERC before they took out a mortgage with a different lender. They were also fully informed of the potential ERC, if they moved, in the Prudential recommendation letter of February 2008, the mortgage offer of March 2008 and the terms and conditions of the mortgage.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have taken careful note of the further representations made by Mr and Mrs K in November 2012.

While Mr and Mrs K accept that the ERC was clearly expressed in the mortgage documents, they submit that Prudential should have included the ERC in the redemption figure given over the telephone in February 2012. They consider it significant that Prudential required repayment of the whole mortgage before considering whether it would lend on a new property. They rely on the ill-health exemption in the mortgage which applies if they moved into care. They also refer to another lifetime mortgage lender which applies a more modest ERC in the range of approximately £2,500-£1,500 over 10 years. They state that Prudential no longer offers new lifetime mortgages and is reluctant to take on new loans for existing clients.

I have considerable sympathy for Mr and Mrs K for the predicament in which they found themselves when seeking to move to a retirement home due to their declining health (in particular that of Mr K), some four years after taking out their Prudential lifetime mortgage.

They wished to remain with Prudential, but unfortunately were unable to port their mortgage to the new retirement home because of its lower value (though if Prudential had agreed the porting request, the ERC would not have applied). It was within Prudential's commercial discretion whether to permit porting in those circumstances. Mr and Mrs K therefore had to redeem their existing mortgage with Prudential and pay the contractual ERC.

I agree with the adjudicator that the ERC was clearly set out in the recommendation letter, mortgage offer and terms and conditions of the mortgage. The size of the ERC reflects the fact that lifetime mortgages are viewed as long-term loans.

I do not think that Mr and Mrs K were misled as to a settlement figure in the call of February 2012 because that discussion related to porting (when the ERC would not apply) rather than a remortgage. Nor do I think that they can benefit from the ERC exemption on the grounds of ill-health because they have not 'moved into care'.

#### **my final decision**

For these reasons I do not uphold this complaint.

Charles Sweet  
**ombudsman**